

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

MONDAY

DECEMBER 2, 2002

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
PETER G. MAY	Commissioner
JOHN G. PARSONS	Commissioner

ZONING COMMISSION STAFF PRESENT:

ALBERTO BASTIDA	Secretary
SHARON SANCHEZ	Office of Zoning

OTHER AGENCY STAFF PRESENT:

JOHN FONDERSMITH	Office of Planning
ELLEN MCCARTHY	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

ALAN BERGSTEIN, ESQ.

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P-R-O-C-E-E-D-I-N-G-S

(6:32 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen.

This is a public hearing of the Zoning Commission of the District of Columbia for Monday, December 2, 2002.

My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner John Parsons. Commissioner Peter May is going to be out in just a few moments.

The subject of this evening's hearing is Zoning Commission Case Number 02-26. This is a request by the George Washington University for a special exception review and approval, pursuant to Sections 210 and 3104 of the Zoning Regulations, 11 DCMR, to amend the Board of Zoning Adjustment's March 31, 1998 Order Number 16276.

More specifically, the university requests that condition 1 of Order 16276 be deleted with respect to the classes of users of the Lerner Health and Wellness Center, which is located at 2301 G Street, N.W., and that condition number 2 of the Order be amended to permit the facility to remain open until 1:00 a.m. on all days except Saturday.

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1 Notice of today's hearing was published in
2 the D.C. Register on August 30, 2002, and in The
3 Washington Times on October 15, 2002.

4 This hearing will be conducted in
5 accordance with the provisions of 11 DCMR
6 Section 3117, which are the BZA procedures for
7 hearings which we use in campus plan cases.

8 Copies of the hearing announcement are
9 available to you and are located on the table near the
10 door.

11 The order of procedure will be as follows:
12 preliminary matters, followed by the applicant's
13 case, the report by the Office of Planning, reports of
14 other government agencies, report of the Advisory
15 Neighborhood Commission -- in this case it's ANC 2A --
16 parties and persons in support, parties and persons in
17 opposition, and, finally, rebuttal by the applicant.

18 The following time constraints will be
19 maintained in this hearing. The applicant has
20 requested 45 minutes. You will have 20 minutes.
21 Parties have 15 minutes. Organizations will have five
22 minutes. Individuals will have three minutes.

23 The Commission intends to maintain these
24 time limits as strictly as possible in order to hear
25 the case in a reasonable period of time. The

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1 Commission reserves the right to change the time
2 limits for presentations if necessary and notes that
3 no time shall be ceded.

4 Parties may, at any time, object to a
5 question posed to a witness by another party, or to
6 evidence sought to be introduced into the record, if
7 it is irrelevant, immaterial, or unduly repetitious.
8 The Commissioners, as well, may request that such
9 testimony or evidence not be received, or that such
10 evidence be struck from the record.

11 All persons appearing before the
12 Commission are to fill out two witness cards. These
13 cards are located on the table near the door as well.

14 Upon coming forward to speak to the Commission,
15 please give both cards to the Reporter who is sitting
16 to my right.

17 The decision of the Commission in this
18 case must be based exclusively on the public record.
19 To avoid any appearance to the contrary, the
20 Commission requests that persons present not engage
21 the members of the Commission in conversation during a
22 recess or at any other time.

23 Staff will be available throughout the
24 hearing to discuss any procedural questions. You can
25 direct those questions to Mr. Bastida or Ms. Sanchez.

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1 Please turn off all beepers and cell
2 phones at this time, so as not to disrupt these
3 proceedings.

4 At this time, the Commission will consider
5 any preliminary matters. Mr. Bastida, do you have any
6 preliminary matters?

7 SECRETARY BASTIDA: Yes, Madam Chairman.
8 The staff has three preliminary matters. The first
9 preliminary matter is the applicant has not filed a
10 maintenance of posting.

11 CHAIRPERSON MITTEN: Mr. Moore?

12 MR. MOORE: Madam Chairman, we have not
13 filed an affidavit for maintenance of posting. We did
14 put the signs up in a timely manner. We did file an
15 affidavit of posting that they were put up in a timely
16 manner. They were checked by me every five days, and
17 they're still up there. We'd ask the Commission to
18 leave the record open for the maintenance of posting
19 signs.

20 CHAIRPERSON MITTEN: All right. Thank
21 you.

22 SECRETARY BASTIDA: The second preliminary
23 matter -- on the Foggy Bottom-West End Advisory
24 Neighborhood Commission, ANC 2A, the last paragraph of
25 the first page erroneously has "approved under the

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1 BZA," and it should be "Zoning Commission Order
2 governing this facility."

3 CHAIRPERSON MITTEN: All right.

4 SECRETARY BASTIDA: And --

5 CHAIRPERSON MITTEN: So we're just making
6 a correction?

7 SECRETARY BASTIDA: Right.

8 CHAIRPERSON MITTEN: Okay.

9 SECRETARY BASTIDA: For the appropriate
10 body to be in front of.

11 And then, the third preliminary matter is
12 the ANC has two preliminary matters.

13 CHAIRPERSON MITTEN: All right. Ms.
14 Elliott?

15 MS. ELLIOTT: Thank you, Madam Chair. I'm
16 Elizabeth Elliott, Chair, Advisory Neighborhood
17 Commission 2A.

18 In the -- we have two questions about
19 whether this is properly -- whether this matter is
20 properly in front of the Commission, because we
21 believe that -- we're not sure whether the university
22 is in non-compliance -- is in compliance with the
23 campus plan.

24 And condition -- I'm sorry to be searching
25 for this. It's on the -- under the BZA Order, the

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1 university was supposed to serve the Advisory
2 Neighborhood Commission and parties with the head
3 count, and the university contends that they've made
4 the filings. And they have made the filings, but the
5 filing was for the previous semester. It runs from
6 January 28th to June -- the end of June or end of May
7 2002, which is the previous semester, and they were in
8 compliance then.

9 We have no idea at this point whether they
10 are in compliance, because the BZA ordered them to
11 report on the 28th of August, which I've spoken with
12 counsel for GW, Charles Barber, who said that they
13 can't -- they don't have their numbers at that point
14 in time for the current semester. So we have no idea
15 whether they're in or out of compliance.

16 CHAIRPERSON MITTEN: Okay.

17 MS. ELLIOTT: And we haven't had the time
18 to file to ask to have -- to appeal to the BZA to have
19 that changed, so that we can know exactly just whether
20 they are or are not in compliance with the Order.
21 That's issue number 1.

22 CHAIRPERSON MITTEN: Okay.

23 MS. ELLIOTT: Did you want the other
24 issue?

25 CHAIRPERSON MITTEN: Yes.

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1 MS. ELLIOTT: The other issue was they --
2 the university also, in condition 9, is stating that
3 the conditions were declared unconstitutional. This
4 is the sufficient housing for its current
5 undergraduate population. It's part of the BZA Order,
6 not counting properties outside the campus plan
7 boundary.

8 And they correctly state that the District
9 Court did invalidate and declare unconstitutional the
10 Order, but that has been appealed in front of the U.S.
11 District Court very strongly by the city. And it
12 supports our -- the ANC's findings of fact in that
13 case, and continues to say that the university would
14 be out of order in terms of the amount of student
15 population outside the campus boundary.

16 CHAIRPERSON MITTEN: Okay. I'm going to
17 give Mr. Moore and Mr. Barber a little bit of time to
18 respond. But what I'd really like to do is have a
19 submission in writing from you that -- I think we'll
20 go ahead with the hearing, and then if we find that
21 you have valid concerns then we will hold off on
22 decisionmaking.

23 And then I'll ask for the same from you,
24 so we can study this further.

25 MR. MOORE: Sure. We'd be happy to submit

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1 to the record, Ms. Mitten. Jerry Moore for the
2 university; Charles Barber also for the university.

3 Taking the second first --

4 PARTICIPANT: I'm sorry. I cannot hear
5 him.

6 MR. MOORE: The second --

7 CHAIRPERSON MITTEN: Could you just pull
8 the mike a little closer and speak up?

9 MR. MOORE: The second issue, on
10 condition 9, it was -- as Ms. Spillinger said, the --

11 CHAIRPERSON MITTEN: This is Ms. Elliott
12 here.

13 MR. MOORE: I'm sorry. Ms. Elliott.

14 (Laughter.)

15 Forgive me. Forgive me.

16 As Ms. Elliott has said, the U.S. District
17 Court has invalidated condition 9. It's over. It's
18 of no effect. We have no responsibilities under that.
19 Period. That it's up for appeal does not
20 reinvalidate it. It's a non-issue.

21 As with respect to the university's head
22 count and the -- how updated that is, Mr. Barber will
23 respond.

24 MR. BARBER: Good evening, Ms. Mitten and
25 members of the Commission.

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1 We are in compliance with the reporting
2 requirements. The reporting requirements requires us
3 to submit certain information on February 28th and
4 August 28th of each year, and we have done that.

5 Ms. Elliott's concern is that the
6 August 28th speaks to the spring numbers, and the
7 February 28th submission speaks to the fall numbers.
8 There is nothing preventing us from doing that, and,
9 quite frankly, that's what we have to do, because in
10 August we don't have fall numbers.

11 We don't take our fall numbers until well
12 into the sixth week of classes. And so our August
13 numbers will always reflect the spring numbers, and
14 our February reporting period will always reflect the
15 fall numbers.

16 We didn't choose these dates. You know, I
17 mean, we can talk about, in another proceeding, maybe
18 better dates. But those are the dates that we were
19 given. We have complied. We have made the
20 submissions.

21 CHAIRPERSON MITTEN: Okay. Well, let's
22 just have some additional submissions on this. And
23 maybe, Ms. Elliott, what you could do is if you would
24 make a submission, and then the university would be
25 given time to respond, since they may have something

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1 more extensive to say besides what they have
2 articulated tonight.

3 MR. MOORE: Perhaps now would be a good
4 time, Ms. Mitten, to submit -- ask the Board to accept
5 the supplemental report on the compliance with the
6 conditions 1 through 8, and 10 through 19, of the
7 Board's remand order.

8 We have submitted documents which show the
9 university in compliance with 1 through 7 and 10
10 through 19. But we neglected to include condition 8,
11 and I'd like to submit that into the record today.

12 CHAIRPERSON MITTEN: Please do.

13 MR. MOORE: And I'll give Ms. Elliott a
14 copy of that.

15 CHAIRPERSON MITTEN: Ms. Elliott, did you
16 have any other preliminary matters for us tonight?

17 MS. ELLIOTT: I just wanted to mention
18 that we did not get service on the university's
19 papers. We did get them finally, but we didn't get
20 the -- we didn't get them timely.

21 CHAIRPERSON MITTEN: Mr. Moore, can you
22 respond to that? Ms. Elliott said she wasn't served
23 with the documents that were submitted to the Office
24 of Zoning in a timely manner.

25 MR. MOORE: That's correct.

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1 CHAIRPERSON MITTEN: She --

2 MR. MOORE: But she has them. She does
3 have them. Mrs. Miller called me and asked me for a
4 copy and indicated to me she did have a copy. She
5 does have a copy, and I believe she has a copy now.

6 CHAIRPERSON MITTEN: And have you had
7 adequate time to review the materials?

8 MS. ELLIOTT: Not really. But we'll
9 proceed as --

10 CHAIRPERSON MITTEN: But the ANC took a
11 position, is that right?

12 MS. ELLIOTT: Yes, we did.

13 CHAIRPERSON MITTEN: Okay. I think we're
14 -- I think we can proceed.

15 MS. ELLIOTT: Not based on --

16 CHAIRPERSON MITTEN: If you find that you
17 need additional time to make another submission
18 because you didn't have the materials timely, we'll
19 accommodate that.

20 MS. ELLIOTT: That would be -- that would
21 be great.

22 CHAIRPERSON MITTEN: Okay.

23 MS. ELLIOTT: Thank you.

24 CHAIRPERSON MITTEN: Mr. Moore, did you
25 have any preliminary matters?

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1 MR. MOORE: No.

2 CHAIRPERSON MITTEN: Okay. Anybody else?
3 I think we're ready to proceed, then.

4 I'd like all individuals planning on
5 testifying this evening to rise now to take the oath.

6 Ms. Sanchez?

7 MS. SANCHEZ: Please raise your right
8 hand.

9 (Whereupon, an oath was administered to
10 those individuals planning to testify.)

11 CHAIRPERSON MITTEN: Now, I'm confident
12 that you can make an effective presentation in 20
13 minutes, Mr. Moore.

14 MR. MOORE: I will not disappoint your
15 confidence, Mrs. Mitten.

16 Good evening, Madam Chairperson, members
17 of the Commission. I'm Jerry Moore, with the law firm
18 of Arter & Hadden, appearing this evening as counsel
19 to George Washington University.

20 This application requests special
21 exception relief under existing campus plan to amend
22 the conditions set forth in the Board's 1998 Order
23 restricting the classes of users at the Lerner Health
24 and Wellness Center and to allow that same center to
25 remain open until 1:00 a.m. on all days except

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1 Saturday.

2 In the Order dated March 31, 1998, the
3 Board of Zoning Adjustment unanimously approved the
4 university's application to construct and use the
5 Health and Wellness Center in the southwest quadrant
6 of the campus at the corner of 23rd and G Streets,
7 N.W.

8 In making that application, the university
9 clearly stated, and the Board of Zoning Adjustment
10 noted in its Order, that the purpose of the center was
11 to serve the recreational and fitness needs of the
12 university population, including special memberships
13 to immediate neighbors of the university community and
14 a summer membership program to others.

15 The Board stated in its findings of fact
16 that the university presented evidence and expert
17 testimony to support its contention that the approval
18 of that application will not have an adverse impact on
19 neighboring property because of traffic, especially
20 since most of the users will come from the existing
21 campus population.

22 The D.C. Office of Planning offered
23 evidence and testimony supporting its recommendation
24 that the application be granted, stating that it will
25 be consistent with the approved campus plan, not

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1 result in an increase in the number of students,
2 faculty, or staff, and it would not impair the intent
3 and purpose of the zoning regulations.

4 The Office of Planning report did not
5 recommend the imposition of any conditions. Crediting
6 this evidence of record, the Board granted the
7 application. However, in so doing, the Board found
8 that the purpose of the facility is not to provide
9 athletic uses for neighbors, alumni, or anyone else,
10 who is not a student, faculty, or staff person of the
11 Foggy Bottom campus.

12 Inexplicably, the Board reached this
13 conclusion in direct contradiction to the noted
14 evidence of record that the purpose of the center was
15 to offer fitness to the entire university community,
16 including to its neighbors.

17 More significantly, the Board decided that
18 offering the use of the facility to anyone who is not
19 a student, faculty member, or staff person from the
20 Foggy Bottom campus, such as alumni, neighbors, or
21 those from other campuses, would create an adverse
22 traffic impact. The Board reached this adverse
23 traffic impact conclusion without any evidence of
24 record.

25 Who would be more reliable than the

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1 university in stating the purposes for which the
2 center is being built? And despite an un rebutted and
3 unchallenged expert traffic and planning analysis that
4 clearly concluded that the free use of the center, as
5 has been proposed by the university, would not cause
6 any adverse parking or traffic impacts.

7 By law, the Board is free to reasonably
8 accept or reject any testimony that it wishes, but it
9 has to say why. And there is no evidence whatsoever
10 in the record of the 1998 case that explains the BZA's
11 decision not to accept the expert traffic analysis.

12 The university is now asking the
13 Commission respectfully to free it from what, in
14 practice, has proven to be unreasonable restrictions
15 on the persons, defined solely by class, who are
16 permitted to participate in the programs offered by
17 the center.

18 The center offered in -- opened in August
19 2001, and since the university has been carefully
20 studying who uses the facility, at what times, how
21 many they are, and the means by which they arrive.
22 The objective data, which already has been presented
23 in writing into the record, will be highlighted this
24 evening.

25 In sum, you will hear that the Lerner

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1 Health and Wellness Center has been, and is, operating
2 at levels that are substantially below its capacity,
3 and that the discontinuance of the class restrictive
4 conditions and the requested adjustment to the closing
5 hour will both have a negligible impact on traffic,
6 parking, and neighborhood tranquility.

7 The burden is the university's to
8 establish -- is the university's to establish the
9 merits of those facts on the record. And for that
10 reason, I would ask the Commission to accord the
11 university the appropriate time that it needs to
12 present its case.

13 We have endeavored to organize our
14 presenters in a logical and efficient manner. First,
15 I will present Mr. Charles Barber, Senior Counsel to
16 the George Washington University, who will speak in
17 tandem with Mr. Paul Brailsford.

18 Mr. Barber will detail exactly whom the
19 university wishes to offer membership to and the
20 reasons supporting his request, and the university's
21 efforts to obtain community support.

22 Mr. Brailsford, the co-founder and CEO of
23 Brailsford & Dunleavy, a firm that decides facility
24 planning and project management services for quality
25 of life facilities at university and schools

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1 throughout the country.

2 I will ask that Mr. Brailsford be
3 qualified as an expert in the field of facilities
4 planning and operations, and I have his resume here.

5 Finally, I think the Commission is
6 familiar with Ms. Nicole White of Gorove/Slade and
7 Associates, who has undertaken a traffic, parking, and
8 transportation analysis of the area, in the context of
9 this case. I will ask the Board also to qualify Ms.
10 White as an expert witness in the field of traffic and
11 parking analysis.

12 The professional reports of Mr. Brailsford
13 and Ms. White are in the record, so the purpose this
14 evening will be to highlight the findings and
15 conclusions and to respond to any questions that the
16 Commission may have.

17 Also, in attendance this evening are Tony
18 Vecchione, the university's Assistant Athletic
19 Director, and Mary Jo Warner, a Senior Associate
20 Director in the Department of Athletics. Each is
21 available to respond to questions within their area of
22 work -- Mr. Vecchione in the operations of the Lerner
23 and Smith Centers, Ms. Warner on the university's
24 squash program.

25 We trust that you will find our evidence

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1 to be substantial, efficiently presented, and
2 persuasive.

3 First, I will call on Messrs. Barber and
4 Brailsford to testify, please.

5 CHAIRPERSON MITTEN: Thank you.

6 MR. BARBER: Good evening. Charles
7 Barber.

8 Why are we here? We're here to try to --
9 the university wants to realize the vision for the
10 Health and Wellness Center that we had back in 1998.
11 This center was always intended, it was always
12 designed, to serve the broader university community,
13 which includes supporters in the university, which
14 includes our alumni, which includes residents of the
15 community.

16 We were, quite frankly, surprised when the
17 BZA limited the facility to students, faculty, and
18 staff of the Foggy Bottom community. There was no
19 warning of this. Rather than seek reconsideration, we
20 thought we'd get a year or two of operations under our
21 belt and come back with data to make our case, and
22 that is what we have done.

23 It's important to note that the Smith
24 Center, which has been in operation for a number of
25 years, currently serves this population. Residents,

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1 alumni, friends, supporters of the university, can use
2 the Smith Center. The Smith Center, though, is a
3 facility that is more suited for intercollegiate
4 athletics.

5 And the university's intention is to move
6 that facility strictly for intercollegiate athletics,
7 renovate it, have room for coaches and visiting teams,
8 and have the people who are using the Smith Center to
9 use the Health and Wellness Center. They cannot do so
10 now, and we think that is a shame.

11 It's a wonderful facility. It's an
12 underutilized facility. It's an opportunity to bring
13 people together. Who are some of the people we're
14 talking about? Well, we're talking about other GW
15 students, not only those who live -- who are
16 associated with the Foggy Bottom campus, but the Mount
17 Vernon campus, as well as the Virginia campus.

18 They come to the university from time to
19 time. We don't think this will be a magnet for them
20 to come. Studies have shown people don't go out of
21 their way to come to health care -- to recreational
22 facilities. They go where it's convenient.

23 We are talking about friends and
24 supporters of the President's Club, which is no more
25 than about 270 people. These are people who are

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1 supporters of the university, and we want to encourage
2 that support.

3 We're talking about people who live and
4 work in the community. There are a number of people
5 over the past year who have approached the university
6 and want to use the facility. We made commitments to
7 those organizations right in the neighborhood as we
8 were developing the original plans, said, "If you
9 support us, we will allow you to use this facility
10 under favorable conditions."

11 We couldn't live up to those obligations
12 once that condition was imposed, and those people,
13 some of them, were here tonight, some of them who have
14 submitted letters, will speak in support of that.

15 GW alumni -- GW alumni currently use the
16 Smith Center. We want them to have the opportunity to
17 use the Health and Wellness Center. We understand
18 that's a sensitive area, because particularly --
19 potentially there's a big, large number of GW alumni
20 in the area.

21 We've approached this in a couple of ways.
22 We said that the maximum amount of all these
23 categories of new members would not exceed 3,000.
24 That's the outer limit, and that's a small number
25 compared to about the 18,000 who are now eligible to

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1 use the Health and Wellness Center. And when you
2 spread that over -- uses pattern over a week, the
3 impact would be small.

4 How did we come up with 3,000? We think
5 3,000 is the outer edge of the interest that we have
6 in these various groups. And we've looked at it, and
7 we think we can accommodate the impact of these,
8 because we have taken studies as to the usage of the
9 Smith Center, and what their likely impact would be if
10 that's transferred to the Health and Wellness Center.

11 Is 3,000 a mandatory number? No, it's
12 not. Maybe the number is 2,500. We think 3,000 is a
13 reasonable number, but we're -- we've put that on the
14 table as 3,000, but we'd be willing to talk about that
15 number.

16 We also have management techniques,
17 pricing. Will more people want to come to the Health
18 and Wellness Center? Yes. But it will be more
19 expensive than the Smith Center. So we have a way to
20 control that population. And if we find the response
21 is too great, we can increase the pricing.

22 Finally, there is special memberships. We
23 can look at perhaps alumni. If there are -- or a
24 group that should be perhaps limited to the weekends
25 and to the summer. That's something the university

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1 would be willing to do once it sees what the response
2 is.

3 What we're looking for, though, is the
4 flexibility to accommodate a broader usage of this
5 facility. We think it would be in everyone's best
6 interest -- members of the community, parents of
7 students.

8 I am going to submit a package of letters
9 that we've received over the past year, and one in
10 particular is a letter from a parent of a student who
11 came down during parents' weekend last fall. This was
12 October of 2001. And he wanted to play racquetball
13 with his son, and he couldn't. And he says, "It's
14 inconceivable how the use of the facility by immediate
15 family members of GW students could adversely impact
16 the community."

17 Although this may seem like an
18 insignificant issue in the light of the recent tragic
19 events -- this was shortly after 9/11 -- the
20 opportunity for a 56-year old father to play
21 racquetball with his 21-year old son during his senior
22 year in college offered the possibility of a lifetime
23 memory. That possibility was denied October 19th.

24 We want to allow this parent and others
25 who are already coming to the university an

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1 opportunity to use this facility.

2 We've taken efforts to make sure our usage
3 projections are correct. We've taken surveys. We've
4 done video. We have a wealth of information on people
5 who are using the facility, both the Health and
6 Wellness and the Smith Center.

7 And, finally, we -- I'd like to talk about
8 the hours of operation. The hours of operation
9 currently end at 10:00. Our students, like students,
10 like young people all over perhaps the world, are --
11 stay up late. And we hear about that from the
12 residents of the community.

13 We think this is a better place for them
14 to be up until 12:00, 1:00. That's what the Smith
15 Center is doing. We are really trying to duplicate
16 what's already in existence with the Smith Center. We
17 think playing basketball at 12:00 is a better thing
18 for them to do than in the bars or some of the other
19 alternatives that could be available.

20 So we're asking that the hours of
21 operation be moved back to 1:00 p.m. on most days --
22 I'm sorry, 1:00 a.m. on most days.

23 Given the limited time, I'll be happy to
24 respond to questions.

25 Thank you.

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1 CHAIRPERSON MITTEN: Thank you, Mr.
2 Barber.

3 MR. MOORE: Madam Chair, I have here --

4 CHAIRPERSON MITTEN: Could you turn on
5 your microphone for me?

6 MR. MOORE: I'm sorry. Madam Chair, I
7 have here some noise studies that were done when the
8 university first considered putting up the Health and
9 Wellness Center. They were submitted to the BZA
10 during that time. There was concern whether the
11 bouncing of balls or the yelling of one or two -- some
12 students in the facility will emanate outside of the
13 facility. This report shows that it -- that will not
14 occur.

15 And also, I'd like to -- the Board to
16 qualify, if it would, the Commission to qualify, if it
17 would, Mr. Paul Brailsford in the area of facilities,
18 operations, and planning. I have his resume here.
19 First, I'll submit the noise report.

20 CHAIRPERSON MITTEN: Why don't we shut off
21 the clock while we look at Mr. Brailsford's resume.

22 MR. MOORE: And, second, I will look at --
23 submit Mr. Brailsford's resume for consideration as an
24 expert in facilities planning.

25 (Pause.)

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1 CHAIRPERSON MITTEN: Do you have resumes
2 for Ms. White?

3 MR. MOORE: I do, indeed.

4 CHAIRPERSON MITTEN: Let's have those,
5 too.

6 (Pause.)

7 While I'm waiting for the Commission to
8 read, Ms. Elliott, did you have any objection to
9 either of these folks being qualified as experts in
10 their field? No? All right.

11 Any objection from the Commission to Ms.
12 White or Mr. Brailsford? All right. They will be --
13 they are qualified as experts in the fields that you
14 proffered.

15 MR. MOORE: Thank you.

16 Mr. Brailsford?

17 MR. BRAILSFORD: Thank you. Can you hear
18 okay?

19 CHAIRPERSON MITTEN: Yes.

20 MR. BRAILSFORD: You have my resume, but
21 I thought I'd start out with a few highlights to
22 further demonstrate the credential that I have, just
23 to --

24 CHAIRPERSON MITTEN: Actually, you know
25 what's better, is if you just roll with the substance

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1 of the case.

2 MR. BRAILSFORD: Fine. Okay. Okay. One
3 of the things that we're speaking to are urban campus
4 facilities that accommodate memberships. I just want
5 to cite for the record a number that we have worked on
6 that are very similar -- Tulane University in New
7 Orleans, DePaul in Chicago, University of Cincinnati,
8 University of Akron, Georgia State, Northeastern, the
9 Reggie Lewis Center in Boston -- both of those are in
10 Boston -- and from that we have developed a keen
11 understanding of why people participate in fitness
12 facilities in urban areas, how they make their
13 decisions, and our projections have been regularly
14 extraordinarily accurate, both in terms of the level
15 of patronage that they would receive and also the
16 pattern of that patronage.

17 For this assignment, we were asked to look
18 at the context within which George Washington
19 University was wanting to change the configuration of
20 who could use the facility. So we looked at that in
21 terms of a national perspective. We looked at usage
22 profiles, membership policies, membership options,
23 hours of operation.

24 We looked at the impact that the change
25 would have on building utilization for its primary

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1 patrons -- being the students and employees of the
2 institution. We looked at that from a daily
3 perspective, weekly perspective, monthly and seasonal
4 perspectives, and we also considered the potential
5 demand of expanded memberships and services, so that
6 we had an idea of what kind of universe and what kind
7 of market context the university was working within.

8 One of the things I'd like to talk about
9 is the context within which GW is operating in terms
10 of nationally, because it is not an institution
11 operating in a vacuum, and it has to compete for
12 students, faculty, and staff. And so it's highly
13 relevant what other universities are doing.

14 Nationally, over the last 15 years, there
15 has been what has been recognized and celebrated as a
16 building boom in terms of campus recreation
17 facilities. To give you an idea of the magnitude of
18 that boom, athletic -- NRSA, which is the trade
19 organization that campus recreation facilities belong
20 to, has estimated that right now there is \$4.4 billion
21 worth of campus recreation facilities under
22 construction right now in the United States.

23 So what's driving this boom? Well, it's a
24 number of strategic comparators. They are as follows.

25 They help enhance educational outcomes, enrollment

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1 management strategies, and then also help enhance the
2 campus community.

3 Those really are the drivers, and I'm
4 going to cite some examples of some of the populations
5 that these facilities target. The reason why that's
6 important is all of the universities are focusing on
7 these primary objectives first, and by focusing on
8 that it really mitigates some of the concerns I think
9 that Mr. Fondersmith had that this would turn into a
10 commercial operation that would -- I guess would run
11 out of control.

12 When you think about the primary markets
13 for these facilities, it's students, it's employees,
14 but there are also some additional important target
15 populations that really -- we really find are very
16 common. Student families -- virtually every facility
17 that we've worked on -- about 70 -- has accommodated
18 student families.

19 Employee families -- alumni are common in
20 just about every sample but one. We've even looked at
21 facilities that we didn't work on. Alumni are almost
22 always allowed.

23 Guests of the university -- they support
24 institutional relationships -- the relationship that
25 the university would like to have with St. Mary's

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1 Court is an example. Community groups for rental
2 activities and community memberships -- every facility
3 that we've worked on, with the exception of the
4 University of Miami in Florida, allows community
5 memberships. And that was not because the community
6 didn't want them in; it was because they didn't build
7 a facility of sufficient size and scale to address
8 that comfortably.

9 So when we look at members -- managing the
10 membership levels, if I'm -- usually populations --
11 yes?

12 MR. MOORE: I've got to stop you.

13 MR. BRAILSFORD: Sure.

14 MR. MOORE: We're running low on time.

15 CHAIRPERSON MITTEN: Would you turn on
16 your mike?

17 MR. MOORE: Yes. I have to stop him here,
18 because we're running low on time.

19 CHAIRPERSON MITTEN: Okay.

20 MR. MOORE: And we'll go to Ms. White,
21 please.

22 CHAIRPERSON MITTEN: That's fine. And
23 we'll ask you questions about the report that was
24 submitted.

25 MS. WHITE: Okay. What a challenge for

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1 me. I left my presentation on the printer, my 15-
2 minute presentation, and now I'm down to a two-minute
3 presentation off the top of my head. So here we go.

4 I've been working on various GW projects,
5 as many of you may know, over the past five years.
6 And I did work on the original Health and Wellness
7 Center project, so I am familiar with the campus and
8 this project.

9 The first figure that Rob, also from
10 Gorove/Slade, shows you is I guess not quite as nice
11 as OP's figure, but it shows the Lerner Health and
12 Wellness Center in relation to the university parking
13 garage, which is where a lot of people would park.
14 Also, the Smith Center and the Foggy Bottom Metro
15 Station, which is just two blocks away.

16 I guess I'll walk you through the steps
17 that we did in order to understand transportation
18 impacts. First, we wanted to understand the existing
19 conditions of the Lerner Health and Wellness Center
20 and the President's Club, because, as you heard, some
21 of the President's Club people will transfer to the
22 Health and Wellness Center.

23 So we worked with the university to
24 collect some data. They have G-World magnetic cards
25 that you swipe upon entering the facility, and so we

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1 were able to mechanically count the number of people
2 entering the Lerner Health and Wellness Center on any
3 given day. So we collected data over a week's time,
4 and we also had someone manually count people as they
5 exited the facility.

6 So I'm going to ask Rob to show our next
7 figure.

8 This shows ins and outs of the Health and
9 Wellness Center, and also accumulation. Accumulation
10 is just a snapshot in time. That's if you froze the
11 Health and Wellness Center at like 6:00 p.m. and took
12 a picture, you would count 243 patrons there at any
13 one time.

14 And the next figure Rob is going to show
15 you shows how the Health and Wellness Center is
16 significantly underutilized. You see the capacity is
17 1,973, and our curve is at 12 percent of this
18 capacity. So that's part of the case that we're
19 presenting here today.

20 MR. MOORE: Impact on parking.

21 MS. WHITE: Okay. So Jerry tells me just
22 go to parking.

23 So go ahead and put that one up, please,
24 Rob.

25 We did a transportation survey over a

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1 week. It was a seven-question survey, and we asked
2 people at the Health and Wellness Center, and also
3 President's Club users, how did you get here today?
4 Where did you park? And what was your primary reason
5 for coming here?

6 And as you can see, as we expect in this
7 urban setting, most of the people walk or take Metro
8 rail, and only 10 percent of the people actually
9 drove. Eighteen percent of President's Club people
10 drove. So I guess I'll --

11 CHAIRPERSON MITTEN: Just wrap up your
12 last --

13 MS. WHITE: Okay. So we used this in
14 order to come up with -- well, let's go to the
15 projection that shows extending hours and -- there
16 were three zoning changes that we were looking at.
17 One was extending the operating hours, and you can see
18 the green curve to where the late evening hours and
19 the early morning hours have to do with that.

20 We projected that level of activity
21 understanding that the hours would be extended to
22 accommodate like intramural activities and stuff, so
23 that's how we got that curve.

24 The red curve has to do with the 3,000 max
25 that Mr. Barber spoke of, and we know that all 3,000

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1 people are not going to come on any one day. We
2 estimated around 32 percent would come on any given
3 day, and then we came up with a profile based on
4 characteristics that we observed at the President's
5 Club.

6 And you can see peaks in the morning,
7 around lunchtime, and in the evening after work. So
8 you can see we went from 243 patrons to 358, which is
9 still significantly below the 1973 capacity of the
10 building.

11 So now we'll go to our traffic and
12 parking. From this, we applied a 15 percent
13 automobile factor from -- that we obtained from the
14 survey, and we found that the change -- the zoning
15 changes would result in 32 vehicle trips during the
16 peak hour, additional trips that is, and 17 parked
17 cars during the peak hour. Some of those would park
18 on the street, and some in university facilities.

19 Thirty-two represents less than .5 percent
20 of the 8,500 peak hour vehicles that are on the
21 campus, and it was not necessary to do a level of
22 service analysis. I know that's what everyone is
23 accustomed to. But we met with DDOT and they agreed,
24 so just based on the magnitude of this we were able to
25 determine that there was no measurable impact.

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1 CHAIRPERSON MITTEN: Okay. Anything else?

2 MR. MOORE: My time is up.

3 CHAIRPERSON MITTEN: Okay.

4 MR. MOORE: My time is up.

5 CHAIRPERSON MITTEN: Okay.

6 MR. MOORE: Except for a closing
7 statement.

8 CHAIRPERSON MITTEN: Well, you'll have
9 time for -- yes.

10 All right. Let's go to questions. Mr.
11 May, do you want to go first?

12 COMMISSIONER MAY: Sure. My first
13 question is for anybody who wants to take it on, I
14 guess. We have this capacity number that's thrown out
15 here as 1,973 people, and the question I have is, is
16 that based -- is that fire code capacity?

17 MR. BRAILSFORD: Yes.

18 COMMISSIONER MAY: Okay. Now, fire code
19 capacity and actual user operation of this facility
20 are two very different things. What's the actual
21 capacity in terms of how many people can be
22 comfortably playing on the various courts and using
23 the various equipment, and so on and so forth?

24 I mean, surely you didn't build a facility
25 for 2,000 people and you expect a capacity -- a

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1 maximum capacity at full operation of only 350. You'd
2 be crazy. So it's got to be something less than that.
3 What's the number?

4 MR. BRAILSFORD: I'm not sure I can give
5 you a precise number, because we didn't do a precise
6 calculation on exactly that. But based on -- we look
7 at facility capacities based on populations that they
8 can serve based on normal patron flows. Based on that
9 analysis, we're comfortable that the building can
10 comfortably accommodate the additional 3,000 members
11 without any problem, even with the university's
12 utilization of the building maturing.

13 Depending on the events that are going on
14 in the building -- intramurals and the like -- the
15 actual capacity can go up or down depending on how
16 that's comfortable.

17 I did do a quickie calculation to
18 determine what the impact would be during peak hours
19 that would -- this one here is extremely conservative.

20 I said, "Let's look at what the population would
21 really look like." And I think non-President's Club
22 members would be even less likely to drive than
23 President's Club members, because they would look more
24 like typical urban health club members.

25 So I think instead of 32 the number could

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1 be as low as 15 to 20 people that might be inclined to
2 drive during peak hour. And that the number of
3 additional users that would go through the building
4 during peak hour that would be in the membership
5 category we're looking at would be one or two people
6 permitted entering the building. And if you were to
7 look at some of the video that has been taken, you
8 wouldn't even be able to perceive that difference at
9 all.

10 COMMISSIONER MAY: Okay. Still getting
11 back to the original question, which is if you look at
12 all of the individual space -- and maybe you can't
13 provide this answer today, and I would think that you
14 could with a little bit of checking. But, you know, a
15 basketball court holds 10 people when you're playing a
16 game, right? It doesn't hold what the fire code
17 capacity is.

18 So now, granted, when you have those 10
19 people there, there are probably four or five people
20 milling around outside. There is -- you know, there
21 is more capacity than simply the number of people who
22 are going to be playing a given game in a given space
23 or using given equipment, and so on. But there has to
24 be some operating capacity that somebody planned for.

25 MR. BRAILSFORD: Without looking at a

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1 specific model and giving a specific number, based on
2 the size and configuration of the building, I would
3 guess it's between 6- and 700 people, which is still
4 substantially beyond --

5 COMMISSIONER MAY: Okay.

6 MR. BRAILSFORD: -- what is currently
7 accommodated.

8 COMMISSIONER MAY: Six or 700 people. I
9 think it would be more instructive if the top bar
10 there was actually the 6- or 700 number instead of the
11 fire code capacity.

12 That's helpful. And if you want to refine
13 that number and qualify it, I'd be happy to receive
14 additional information on that, because I think that's
15 a relevant point.

16 The next issue is something we didn't talk
17 about specifically in the testimony, but it's the
18 squash thing. Is there a long-term plan for squash to
19 be played somewhere else, and this is just a temporary
20 circumstance?

21 MR. BUNNELL: We're like the military, Mr.
22 May. We have a lot of people who do a lot of
23 different things here, and this is our squash lady.

24 COMMISSIONER MAY: Okay.

25 MR. BUNNELL: Mary Jo Warner is the -- one

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1 of the assistant directors in the Department of
2 Athletics, and she is in charge of squash.

3 MS. WARNER: Yes. We've added
4 intercollegiate squash for men and women at GW. We've
5 had a men's squash club for 23 years. Prior to this,
6 we did not have a women's squash team.

7 COMMISSIONER MAY: Okay. But the long-
8 term plan for where they will play?

9 MS. WARNER: Is in the Health and Wellness
10 Center.

11 COMMISSIONER MAY: So you would hope to
12 continue to use it. Now, is there any hope or plan
13 that there will actually be spectators for this, or is
14 it always just going to be open the door, send in the
15 competitors, and out comes a winner?

16 MS. WARNER: There would be a very minimal
17 number of spectators, an occasional parent or friend
18 or -- squash does not draw a lot of spectators, and
19 there would be no seating for them.

20 COMMISSIONER MAY: Okay.

21 MR. BARBER: It is not our plan to have
22 spectators. There is not a facility available for
23 them. And the reason why we -- I think it's in the
24 papers, but I wanted to emphasize the point. The
25 reason why we want to have squash at the Health and

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1 Wellness Center -- because intercollegiate squash
2 requires a squash court of a particular dimension,
3 and the Smith Center doesn't meet that.

4 COMMISSIONER MAY: Right. Well, I'm just
5 thinking that, you know, if there are plans long term
6 to renovate Smith Center, and that's supposed to be
7 the spectator facility, was there a plan ultimately to
8 have squash courts there?

9 MR. BARBER: No.

10 COMMISSIONER MAY: As opposed to in the
11 Health and Wellness Center?

12 MR. BARBER: No. It would not fit in the
13 Smith Center.

14 COMMISSIONER MAY: Okay.

15 MR. BARBER: So we would commit not to
16 having significant spectators in the Health and
17 Wellness Center.

18 COMMISSIONER MAY: Okay. So it's going to
19 be just a handful of people watching the game.

20 MR. BARBER: That's right.

21 MR. MOORE: Mr. May, I think the Office of
22 Planning also said in its report, when you see the
23 squash courts and the area there is to watch, it's not
24 an area that invites people to spectators -- invites
25 itself to spectator sports. It's just a hallway.

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1 MR. BARBER: And we wouldn't allow that.

2 COMMISSIONER MAY: Okay. I've been in
3 health clubs, and I've actually watched squash games,
4 so I know there is some ability to actually watch the
5 game going on. So it's -- but it's not -- I can
6 understand how difficult it would be to design a
7 facility to actually sit and watch it. So, but I just
8 don't know -- I don't know what a competitive facility
9 would be like, so that's why I'm asking the question.

10 Okay. The other question I have is about
11 the current population of users at the Smith Center
12 for their health club function, or whatever.
13 Essentially what you are -- I mean, that population is
14 now the same population that you would be inviting to
15 come into the Lerner Center. And so that's open to
16 people who live in the neighborhood, work in the
17 neighborhood, alumni, everybody?

18 MR. BARBER: Yes.

19 COMMISSIONER MAY: Anybody and everybody
20 pretty much?

21 MR. BARBER: I know of no restrictions.
22 No, no restrictions.

23 COMMISSIONER MAY: There are no
24 restrictions. I mean, so --

25 MR. BARBER: I mean, not that you're

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1 proposing exactly that for -- for the Health and
2 Wellness Center, but --

3 MR. MOORE: Mr. May, it's important that
4 you know that alumni can only use the Smith Center on
5 weekends and in the summer. And that same plan is
6 presented here today in the Health and Wellness
7 Center. We're not talking about a whole lot of
8 people. We're talking about perhaps 30, but I have a
9 witness that can talk to that as well.

10 MR. BARBER: But your point is that --
11 does it allow a wide variety of users, and it does.
12 Like, for example, students from the School Without
13 Walls sometimes use the Smith Center. We'd like for
14 them to use the Health and Wellness Center.

15 People in the State Department work there,
16 people who live in St. Mary's Court, a few of them now
17 use the Smith Center.

18 COMMISSIONER MAY: Okay. But that same
19 population of people, when they move to the Health and
20 Wellness Center, will presumably grow, because it's
21 going to be a better -- it's a better facility.

22 MR. BARBER: Yes. We expect some growth.
23 As I was saying, there's -- we would temper that for
24 -- with two measures. One, we're charging more for
25 the Lerner Center. The Smith Center is either free or

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1 a nominal cost. The other thing is that, of course,
2 we would agree to this cap on the total number of new
3 members. That's the management tool for preventing
4 that number to grow out of control.

5 COMMISSIONER MAY: Okay. All right.
6 That's it for me. Thanks.

7 CHAIRPERSON MITTEN: Thank you, Mr. May.

8 Anybody else? Mr. Parsons, any questions?

9 COMMISSIONER PARSONS: Yes. Mr.
10 Brailsford, in your report you have a table. There's
11 no page numbers, so I'm not sure what page it is. But
12 it's Roman numeral six, and it's talking about the
13 typical hours of campus student recreation centers.
14 And as you report in your first sentence, most of them
15 are open from 6:00 a.m. to 11:00 p.m.

16 MR. BRAILSFORD: Yes.

17 COMMISSIONER PARSONS: And some until
18 midnight. And then you go on to say that somebody did
19 a study at Dartmouth and said that everybody is -- at
20 least at half of them are up at 3:00 in the morning.
21 But I guess I'm not persuaded that -- by this data
22 that there's a need to remain open until 1:00 in the
23 morning.

24 It seems more speculative that other
25 institutions are thinking about doing that, whereas in

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1 reality they're really open until 10:00 or 11:00.

2 MR. BRAILSFORD: I can speak to that. The
3 reason why universities like to hold these facilities
4 open later, there is really two reasons. One is the
5 -- particularly since the drinking age got lowered
6 from 21 to 18, universities are much, much more
7 motivated to provide non-alcohol or alcohol-free
8 activities for the students to get engaged in. Being
9 able to hold those facilities open during the hours
10 which they would do -- be doing those other things is
11 critically important.

12 The second thing is a matter of being able
13 to extend the capacity of the building for a
14 particular function which strategically is very
15 important for the institution, which is intramurals.
16 The quality of an intramural experience depends on how
17 many games a team can get in a season before it
18 qualifies for the playoffs and moves on.

19 With only four courts in the building,
20 being able to extend the hours has a dramatic impact
21 on the extent to which it can expand the intramural
22 programming.

23 If you look at the other kinds -- the
24 other users that might be using the building, you're
25 right, there's not that much of a compelling interest

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1 for large numbers of other people to use a building
2 late at night.

3 But I think it's a -- particularly in an
4 urban setting where it's not like the University of
5 Illinois, it has 23 indoor basketball courts, there
6 are going to be four. And I think it's very important
7 to be able to get the maximum utilization out of that
8 asset.

9 COMMISSIONER PARSONS: Well, do intramural
10 sports require referees and --

11 MR. BRAILSFORD: Yes.

12 COMMISSIONER PARSONS: And do you really
13 think you're going to lure that kind of person down
14 here at 1:00 or 2:00 in the morning?

15 MR. BRAILSFORD: Oh, absolutely.
16 Universities routinely run intramurals until 2:00 in
17 the morning. Absolutely.

18 COMMISSIONER PARSONS: But not in these
19 facilities that you report here.

20 MR. BRAILSFORD: No. But I could cite
21 others. We were trying to cite urban institutions
22 that you all would be familiar with. If you went into
23 almost any big 10 or southeastern conference,
24 institution, they're running intramurals routinely
25 late into the -- into the early morning.

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1 MR. BARBER: Could I add one more thing
2 about the --

3 MR. BRAILSFORD: The Smith Center has
4 intramurals until 1:00 in the morning now.

5 COMMISSIONER PARSONS: I see.

6 MR. BARBER: And the other issue about the
7 late hours is that we're hoping for, and we would
8 expect, some migration. That is, some of the students
9 who are coming at the peak time -- 5:00 to 7:00 --
10 would choose to come at a later time; therefore, kind
11 of softening that peak. And it kind of fits with our
12 desire to broaden the usage. We would spread out the
13 usage as well. There are some students who would just
14 choose to come later.

15 COMMISSIONER PARSONS: Mr. Brailsford, you
16 didn't give the capacities of these other institutions
17 as to whether they are operating at a 15 percent of
18 capacity or 20 percent of capacity.

19 MR. BRAILSFORD: No, we didn't.

20 COMMISSIONER PARSONS: Has the university
21 overdesigned this, or what is the circumstance that
22 we're in here?

23 MR. BRAILSFORD: I think the university
24 designed it for the use that it's asking for now. I
25 mean, that was I think what was always envisioned. I

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1 think that the -- even if the facility were to be
2 completely utilized during peak times, during say
3 September and January, there would still be other
4 portions of the facility that would be underutilized
5 just based on the typical patron flow of students and
6 faculty.

7 And some of the populations that the
8 university is seeking to be able to use the facility
9 would be able to take advantage of those typically
10 underused -- utilized times, some of the user
11 categories that were being cited. It's just a matter
12 of -- it's almost not even a matter of a capacity.

13 It's a matter of reasonable policy for a
14 married student not to be able to come to the Health
15 and Wellness Center with his or her spouse. It's just
16 unusual. We just don't see universities providing
17 that kind of limitation.

18 So there are lots of categories of
19 utilization that the university is seeking that I
20 think are even aside from the capacity issue.

21 COMMISSIONER PARSONS: All right, then.
22 You, in the last paragraph of your report, cite DePaul
23 University's experience. And there you say that they
24 have 3,000 non-members, which is I guess exactly
25 parallel to what's been described here. And this

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1 generates about 800 new members or new participants
2 per day.

3 We are still way under capacity at this
4 facility, even if we go to 3,000, right?

5 MR. BRAILSFORD: Yes. I would think that
6 even at 3,000 there would probably be room for
7 additional utilization of the building. But I think
8 it's in the university's best interest not to exploit
9 that up to the margin. One of the things that we've
10 seen is that these facilities take three to five years
11 to fully mature into the culture of the institution.

12 So I think some of that capacity is going
13 to naturally be absorbed by increased utilization by
14 students and employees as it becomes a more normal
15 part of their existence on campus.

16 COMMISSIONER PARSONS: Well, in that case,
17 then, is one year a good test if it's really a three-
18 to five-year --

19 MR. BRAILSFORD: Our understanding of what
20 is likely to happen is drawing some observations that
21 we've had for facilities over the last 16, 17 years.
22 So I think we're very comfortable projecting what we
23 think the mature level of utilization might be, and
24 we're very comfortable that within that envelope the
25 3,000 people that the institution is wanting the

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1 flexibility to be able to allow use the building will
2 fit.

3 COMMISSIONER PARSONS: Okay. Thank you.

4 CHAIRPERSON MITTEN: Mr. Hood?

5 VICE CHAIRPERSON HOOD: Thank you, Madam
6 Chair.

7 Mr. Moore -- but I'm going to direct this
8 question to Mr. Barber. Mr. Moore, in his statement,
9 he mentioned free use. Is that what is being offered
10 to the neighborhood -- free use?

11 MR. BARBER: No. Let me --

12 VICE CHAIRPERSON HOOD: He used that term
13 rather loosely, and I was thinking he was talking
14 about cost. He said -- I think you did mention free
15 use.

16 MR. MOORE: I mentioned the ability of the
17 university to choose its members freely, not the free
18 use of the facility.

19 VICE CHAIRPERSON HOOD: Makes a
20 difference.

21 MR. MOORE: A difference.

22 VICE CHAIRPERSON HOOD: Okay.

23 MR. BARBER: Most users will be charged a
24 cost. We would -- we have talked about and are ready
25 to adjust pricing to make it more favorable to

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1 community residents. In fact, we've talked to like
2 St. Mary's Court and allowing those particular older
3 citizens that are right on the square to have a very
4 favorable usage pattern in terms of price.

5 VICE CHAIRPERSON HOOD: Okay. And the
6 question that I have about this staying open late, you
7 mentioned that you are going to stay open until --
8 you're proposing to stay open until 1:00 every evening
9 except for Saturday.

10 MR. BARBER: That's right.

11 VICE CHAIRPERSON HOOD: What time are you
12 going to close on Saturday?

13 MR. BARBER: 11:00.

14 VICE CHAIRPERSON HOOD: I don't --

15 MR. BARBER: You don't understand that?

16 VICE CHAIRPERSON HOOD: I really don't
17 understand that.

18 MR. BARBER: It's counterintuitive, and I
19 -- I apologize. It is counterintuitive. What we have
20 seen is it doesn't matter how late we stay open on
21 Saturday. After 11:00 -- or after 10:00, at the Smith
22 Center, you don't get very many patrons.

23 Now, we may revisit that. I would just as
24 soon have it open until 1:00 every day of the week and
25 see if we can do some programming to bring students in

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1 during Saturday. But what our experience at the Smith
2 Center has been prior to the Health and Wellness
3 Center is -- and even afterwards, is that there is
4 very little usage on the later hours on Saturday.

5 VICE CHAIRPERSON HOOD: I'm trying to
6 understand how this is going to work. You mentioned a
7 plan that you had of encompassing the neighborhood and
8 the community folks coming to use the facility.

9 MR. BARBER: Right.

10 VICE CHAIRPERSON HOOD: And you -- one of
11 the things you mentioned was favorable conditions.

12 MR. BARBER: Right.

13 VICE CHAIRPERSON HOOD: I guess -- and I
14 wouldn't expect for us to have anything too specific.
15 But I just don't see a plan. I don't see how it's
16 going to work.

17 MR. BARBER: Okay. Well, let me --

18 VICE CHAIRPERSON HOOD: I don't see how
19 you're going to make a cap and not let the next person
20 across the street come over when I want to -- I live
21 in the neighborhood, too. I just don't see you
22 cutting that off.

23 MR. BRAILSFORD: My primary involvement is
24 with Brailsford & Dunleavy, but we have a sister
25 company called Centers, LLC, that allows universities

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1 to outsource their campus recreation services. And
2 that's why we cite DePaul University, because it's one
3 of our facilities that is in an urban area.

4 The proximity of the institute -- of the
5 facility to parking and to public transportation is
6 very similar. So the nature of the Lincoln Park
7 neighborhood is very similar to Foggy Bottom, so there
8 are a lot of parallels.

9 There, interestingly, they had to have
10 outside memberships as -- to get their zoning
11 approval, because the neighborhood said, "If you don't
12 let us in, you can't build it." And it was the
13 neighborhood --

14 VICE CHAIRPERSON HOOD: So you used it as
15 a bargaining tool.

16 MR. BRAILSFORD: Right.

17 VICE CHAIRPERSON HOOD: Okay.

18 MR. BRAILSFORD: And so the neighborhood
19 actually fought against having restricted boundaries,
20 because they envisioned themselves that they may be
21 transient, might move around this -- the different
22 parts of the city. They may have buddies that they
23 would want to invite.

24 So, anyway, so it's very much the
25 circumstance that DePaul is seeking -- I mean, that GW

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1 is seeking was imposed on DePaul by its neighbors.
2 However, to protect its interest for its primary
3 patrons, the students -- and its employees, it does
4 have a soft cap.

5 What I mean by a soft cap is there is not
6 a prescribed number that they're limited to. But it
7 just -- it basically monitors the utilization. And
8 when utilization starts to crowd the students, they
9 start tailoring it back or asking us to tailor it
10 back.

11 It actually works -- it works very well,
12 because it creates a sense of urgency, that the
13 neighbors want to make sure that they're queued up.
14 We have a very long waiting list. It doesn't create
15 any ill will with the neighborhood. They understand
16 the importance of the university paying attention to
17 its priorities first, and it's carefully managed.

18 People on the member -- on the waiting
19 list are given an opportunity first to buy what we
20 call a blue membership, which is an off-peak hour
21 membership. We're getting ready to introduce a blue
22 membership plus, which allows the members to have a
23 limited number of times that they can go during normal
24 peak hours to further entice people to want to
25 participate under that kind of a membership.

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1 VICE CHAIRPERSON HOOD: Okay.

2 MR. BARBER: We keep track of new
3 memberships. And of the 3,000, what we have said is
4 that fully one-third will be members of the community.

5 And so we would keep track of the community new
6 members and the non-community of new members, and when
7 we got to that cutoff point we wouldn't offer any new
8 memberships until there was some attrition.

9 VICE CHAIRPERSON HOOD: Okay. Mr.
10 Brailsford, let me just go back to you for a second.
11 You made a statement about how hard it would be on
12 married students to go to the gym and not be able to
13 take their spouse. I don't need a response, but I'm
14 just going to tell you most people go to the gym to
15 relieve stress.

16 (Laughter.)

17 MR. BRAILSFORD: I know where you're
18 going. I know where you're going.

19 VICE CHAIRPERSON HOOD: I'm serious. So I
20 don't -- you know, that argument -- I know you do
21 studies.

22 (Laughter.)

23 They are counter --

24 MR. MOORE: I'd like to disassociate
25 myself with that comment.

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1 (Laughter.)

2 VICE CHAIRPERSON HOOD: I'm being real
3 here, so --

4 (Laughter.)

5 CHAIRPERSON MITTEN: Anything else?

6 VICE CHAIRPERSON HOOD: Unfortunately, we
7 didn't do a level of service, because I would like to,
8 again, find out what Gorove/Slade and Ms. White had,
9 what they thought the level of service would have been
10 in that area. But I understand through your
11 testimony, Ms. White, you didn't do level of service.

12 MS. WHITE: Yes. Typically, we do like a
13 level of service analysis. If the university were to,
14 let's say, add additional parking spaces or, you know,
15 we'd have to look specifically at that type of impact.

16 But because the level of the increase in peak hour
17 vehicles was so low -- and we talked to DDOT about
18 this and they agreed in our meeting that it wasn't
19 necessary to do a level of service analysis.

20 Plus, people are dispersed. It's not like
21 everyone is parking at one facility. They park
22 dispersed throughout the campus. So --

23 VICE CHAIRPERSON HOOD: Let me ask a
24 question. I don't make it up that way too much
25 because of the traffic, to be frankly honest.

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1 (Laughter.)

2 But let me --

3 MR. MOORE: Commuter traffic. Commuter
4 traffic.

5 VICE CHAIRPERSON HOOD: -- ask a question
6 about the Presidential Club. Where is that in
7 relationship to the Wellness Center? If somebody
8 could just point it to me on a map. You don't --

9 MS. WHITE: It's in the Smith Center.

10 VICE CHAIRPERSON HOOD: It's in -- the
11 Presidential Club, that's --

12 MS. WHITE: The President's Club is in the
13 Smith Center, if you can --

14 VICE CHAIRPERSON HOOD: Oh, it's in the
15 Smith Center.

16 MS. WHITE: Yes.

17 VICE CHAIRPERSON HOOD: Okay. I thought
18 I'm talking about a totally different club.

19 MR. MOORE: Mr. Hood, this is a membership
20 facility. It has no facility to it. President's Club
21 is a class of membership, but there is no specific
22 room with, you know, our placard on the front.

23 We have here Mr. Tony Vecchione, who is
24 the Assistant Athletic Director, and he can explain
25 exactly what the President's Club is all about to you,

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1 sir.

2 VICE CHAIRPERSON HOOD: Thank you. I
3 thought we were talking about a totally different
4 facility. Thank you.

5 MR. MOORE: No.

6 MR. VECCHIONE: No. The President's Club
7 is located within the Smith Center. And it's a
8 special locker room facility for both men and women.
9 It has its own sauna and steam room in it. So it's
10 located within the facility, and we charge a larger
11 price for it. We charge \$500 for GW faculty, staff,
12 and affiliated people, and we charge \$600 for people
13 who are not affiliated with GW. And there's a \$500
14 initiation fee.

15 MR. MOORE: Mr. Hood, this is, in essence,
16 a premium membership to use special facilities within
17 the Smith Center right now.

18 VICE CHAIRPERSON HOOD: Educate me on this
19 -- on the President's Club. Would you have some of
20 the same equipment, like Nautilus, free weights? What
21 do you have in --

22 MR. VECCHIONE: We have new equipment, of
23 course, at the Health and Wellness Center. And
24 basically the cardio equipment is Life Fitness
25 equipment. We have Hammer Strength free weight

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1 equipment, and also Life Fitness selectorized or
2 plate-pin loaded equipment. So it's all state of the
3 art.

4 VICE CHAIRPERSON HOOD: So what's the
5 difference between the Wellness Center and the
6 President's Club, besides the affluent -- the money
7 issue and all of that other stuff, what is the
8 difference?

9 MR. VECCHIONE: It's larger. The Health
10 and Wellness Center is much bigger.

11 VICE CHAIRPERSON HOOD: The Wellness
12 Center.

13 MR. VECCHIONE: And the Smith Center is --
14 you know, the cardio area is very small. It's
15 probably about -- you know, I'm just guessing, it's
16 about one-tenth of the size of the Health and Wellness
17 Center.

18 We have a very small free weight room.
19 It's a racquetball court. Our free weight room in the
20 Smith Center is a converted racquetball court. It's
21 that size. And the room at the Health and Wellness
22 Center is about four times the size of it, probably
23 four to five times the size.

24 We only have 85 President's Club members
25 at the Smith Center, and that's the number we're

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1 looking at moving over to the Health and Wellness
2 Center.

3 VICE CHAIRPERSON HOOD: So what you're
4 going to do, if I understand you correctly, you're
5 going to move those 85 members over to the Wellness
6 Center.

7 MR. VECCHIONE: That's correct.

8 VICE CHAIRPERSON HOOD: And close the
9 Smith Center.

10 MR. VECCHIONE: That's right. What
11 happens at the Smith Center lots of times is that
12 whenever we have special events -- basketball games,
13 men's/women's basketball games -- we have to shut the
14 facility down completely, because our visiting team
15 locker room is the men's and women's general locker
16 room. So in order to have an athletic event of that
17 size, you have to shut the building down.

18 So people who pay money for a membership,
19 as well as the students and faculty and staff that use
20 the building, that's taken away from them. They can't
21 -- cannot use the building whenever we have special
22 events.

23 VICE CHAIRPERSON HOOD: Okay.

24 MR. VECCHIONE: That's why we built it.

25 VICE CHAIRPERSON HOOD: Let me just ask --

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1 maybe you would be the person. You're trying to stay
2 open until 1:00. Most of the time when you exercise,
3 if you exercise your metabolism is still running after
4 a while, so that wouldn't put you to sleep until maybe
5 3:00 or 4:00 in the morning.

6 So I really don't understand the rationale
7 of staying open until 1:00. I really don't.

8 MR. VECCHIONE: The main reason --

9 VICE CHAIRPERSON HOOD: Let me just ask
10 this, too, so you can respond in -- at one time.

11 MR. VECCHIONE: Okay.

12 VICE CHAIRPERSON HOOD: Do many people
13 work out between 11:00 and 1:00?

14 MR. VECCHIONE: They do. Okay? But the
15 large population that will use the facility at the
16 later hours are basically those that are participating
17 in intramural activities and also club activities.
18 And we have a high demand for that type of competition
19 and that type of space, and we do not have that in the
20 Smith Center.

21 We're compensating right now in the Smith
22 Center for time that we don't have in the Health and
23 Wellness Center, but we're running out of it. And to
24 provide those type of opportunities to our students,
25 we just can't do it.

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1 MS. WHITE: Mr. Hood, can I just add, from
2 my personal experience I used to play in Virginia,
3 just a few short years ago, and they had volleyball
4 club leagues that started at 11:00 at night. So, I
5 mean, and I'm out of school, so I'm sure the
6 collegiates would be happy to participate that time of
7 night.

8 MR. VECCHIONE: We have classes in the
9 evening, and usually, you know, it's hard for
10 intramural events to start before 6:00. So they
11 usually start at 6:00 and after, and they get out of
12 class also around 8:00.

13 VICE CHAIRPERSON HOOD: Okay. Thank you.
14 Thank you for answering my questions.

15 CHAIRPERSON MITTEN: I just want to follow
16 up on the questions that Mr. Hood was asking. I just
17 want to make sure I didn't miss something. Isn't the
18 only intramural facility in the Health and Wellness
19 Center squash courts? What else is there?

20 MR. BRAILSFORD: The only intercollegiate
21 facility is squash courts. Intercollegiate is
22 different than intramurals. Intramurals is students
23 playing between students. Intercollegiate is --

24 CHAIRPERSON MITTEN: Okay. So what kind
25 of sports are -- what are we talking about?

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1 MS. WHITE: We've had basketball and
2 volleyball.

3 CHAIRPERSON MITTEN: Okay. I'm also sort
4 of baffled about the late hour that's being promoted
5 here, especially the argument that's being made that
6 this is an alternative for students who want to go out
7 drinking, because you're closing early on Saturday
8 because that's the night they're most likely to go out
9 drinking, and yet you're going to close early.

10 And the hours of these other facilities
11 that you show in the survey that you did, each of them
12 close earlier on Saturday than they do during the
13 week. And so I -- and some close earlier on Friday as
14 well. So it strikes me that when -- that you're --
15 that you're really not addressing that problem at all.

16 MR. BARBER: Saturday -- what has happened
17 Saturday is -- reflects what students' patterns are
18 without trying to adjust them. I think we can come up
19 with programs, maybe structure the intramural
20 programs, and so they occur more on Saturday.

21 What I was reflecting in terms of the
22 university's experience with the Smith Center is if we
23 do nothing and say, "All right. Here is -- the
24 facility is open. You come when you want to come,"
25 the patterns are they come up until all hours, up

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1 until very late on every day except Saturday.

2 If we take a more proactive stance, which
3 I think the university is -- certainly has considered
4 and is willing to do, that we program things on a
5 Saturday. We can attract more of an audience on
6 Saturday and stay open on Saturday.

7 CHAIRPERSON MITTEN: I mean, don't you
8 have -- I mean, I've read surveys about the great
9 lengths that students will go to to stay awake --

10 MR. BARBER: Yes.

11 CHAIRPERSON MITTEN: -- including taking
12 Ritalin and other things. I mean, don't you have an
13 interest -- a greater interest in terms of their
14 academic experience to getting them to bed?

15 MR. BARBER: You know --

16 (Laughter.)

17 -- students have a --

18 CHAIRPERSON MITTEN: To sleep.

19 MR. BARBER: I appreciate that. I
20 appreciate that. You know, I have a college age
21 student, and they sleep at different times. And it's
22 not like they're not getting sleep. It's not like if
23 they're not in the gym at 12:00, well, they'll be home
24 in bed asleep. That's not what's happening.

25 There are -- sometimes their classes will

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1 start later, and so they'll sleep late. Sometimes
2 they will sleep during the middle of the day. They
3 will get their sleep, but it just won't be at 11:00 or
4 12:00 at night. But they are just up.

5 CHAIRPERSON MITTEN: Well, what time do
6 you close the library?

7 MR. BARBER: Midnight, but it stays open
8 later during certain times of the year.

9 CHAIRPERSON MITTEN: Like exams or
10 something?

11 MR. BARBER: Yes. And there are some of
12 our facilities that allow access 24 hours.

13 CHAIRPERSON MITTEN: Well, how about the
14 Gelman Library, the main library, you routinely close
15 that at midnight, right?

16 MR. BARBER: Right. I have to doublecheck
17 on that. I believe there are parts that stay open
18 later, but that's -- 12:00 sounds about right. I'd
19 really have to check on that.

20 CHAIRPERSON MITTEN: So, I mean, it just
21 strikes me as somehow inconsistent for an academic
22 institution to want to leave a sports facility open
23 later than they would leave their library open. I
24 just --

25 MR. BARBER: Really, I can give you the

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1 exact hours of Gelman that -- and I believe it's -- I
2 know at some times of the year they are open -- it's
3 open 24 hours.

4 CHAIRPERSON MITTEN: Well, why don't you
5 submit that for the record.

6 MR. BARBER: We will.

7 CHAIRPERSON MITTEN: That would be great.

8 MR. BARBER: All right.

9 CHAIRPERSON MITTEN: I want to also follow
10 up on something that Mr. Parsons and Mr. May both
11 asked about, which is the way the facility was
12 designed. And in the -- this is in the beginning of
13 the submission.

14 On page 6, it talks about the usage that
15 was projected in 1998, and it says that those
16 projections indicated that the university could expect
17 during an average weekday about 2,100 visitors, and of
18 these users 242 were expected during the 7:00 p.m.
19 hour, which was thought to be the peak hour, and 212
20 would come around 2:00 on a typical day, and then it
21 goes on to give some further numbers.

22 And then, later, on page 9, you talk about
23 the peak usage -- the peak hour apparently was not
24 7:00 p.m, but 5:00 to 6:00, and you have 243 users at
25 the peak hour, which is basically what you had been

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1 projecting. And then, typical usage is around, as
2 it's shown on the top of page 11, typical day, you
3 know, 2,400 visitors. And you've said, well, you were
4 projecting during a typical day 2,100 visitors.

5 This is before the restrictions that the
6 BZA put on about the usage. So, you know, what -- it
7 seems to me that you got exactly what you planned on.

8 You planned on a facility that would have this kind
9 of usage, and you have this kind of usage.

10 MR. BARBER: Well, there are two factors.

11 One, we hadn't -- I think the timeframe, the early
12 closing, has condensed the usage to make it higher
13 during the hours of 7:00 to 10:00 when it's open.

14 We'd like, for one, to spread that out,
15 having earlier openings and later closings, which
16 would allow more people to use the facilities during
17 the middle of the day.

18 And, two, our experience of running the
19 facility. We see that at its max, which is on a
20 Wednesday, five to six, 250 people in the building; we
21 realize there's still a great amount of unused space
22 that's not being used. We've had the benefit of
23 experience now in seeing what the utilization
24 basically has been and what that means for the
25 operation of the facility, and we realize we have a

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1 greater capacity now.

2 CHAIRPERSON MITTEN: Well, didn't you have
3 somebody like Mr. Brailsford advising you when you
4 originally designed the facility?

5 MR. BARBER: Not in that detail. We were
6 fairly new at this. We did some rough projections,
7 but in terms of our operation of health and wellness
8 facility.

9 CHAIRPERSON MITTEN: Okay. In one of the
10 submissions that we got in the package that we were
11 handed today from the letter of support from the
12 Western Presbyterian Church, they were talking about
13 how advantageous it would be for the residents to
14 become members at an extremely low rate, and Mr. Hood
15 was talking to you about what exactly is being
16 offered --

17 MR. BARBER: Yes, okay.

18 CHAIRPERSON MITTEN: -- to people, and you
19 know, we have these letters of support.

20 Well, what are their expectations?

21 MR. BARBER: Yes, I'm sorry. I should
22 have spelled that out in greater detail.

23 What we have said is that that we would
24 charge community residents -- and we have defined
25 that, the boundaries of what that means -- the same

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1 rates that we charge staff, and now that currently is
2 \$295 a year, is what staff pay.

3 We've tried to accommodate community
4 interests in two ways. One, we said of the 3,000, one
5 third would be from the community, and we also said in
6 terms of pricing the community residents would pay
7 what the staff pays.

8 CHAIRPERSON MITTEN: And that's something
9 that you are proffering indefinitely or that's just
10 for now or for what? I mean, what's the --

11 MR. BARBER: We're prepared to make that
12 commitment.

13 CHAIRPERSON MITTEN: And would that be a
14 condition as well?

15 MR. BARBER: Yes.

16 CHAIRPERSON MITTEN: And I think that, you
17 know, one of the concerns of the community is that
18 it's not consistent with your mission to turn this
19 into any kind of commercial facility.

20 MR. BARBER: Right.

21 CHAIRPERSON MITTEN: And you know, you've
22 sort of delineated these different classifications of
23 potential users, and you know, things like having
24 guests of existing members is, you know, one cut, and
25 then another cut would be family members, and so

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1 forth.

2 Have you spent any time prioritizing which
3 classes of members you would most want to be included
4 if we got down to trying to accommodate the community,
5 and also recognizing the situation that it does seems
6 a little onerous for someone who's a member, a student
7 or something not to be able to bring his father or
8 something in?

9 Have you thought about that or would you
10 think about that?

11 MR. BARBER: Yes, we can think about that
12 in terms of prioritizing other non-community uses. Is
13 that what the question is?

14 CHAIRPERSON MITTEN: Well, what means the
15 most to you? What means the most to you, the
16 university?

17 MR. BARBER: Right.

18 CHAIRPERSON MITTEN: I mean, it's one
19 thing to say -- I mean, I can see that you can make
20 the argument in terms of advancing your mission, which
21 is why you're allowed through a special exception
22 process in these residential zones in the first place.

23 MR. BARBER: Correct. I understand.

24 CHAIRPERSON MITTEN: What means the most
25 to your academic mission? And I think that might help

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1 us if we get to the point where we need to.

2 MR. BARBER: I appreciate that, and we'd
3 be happy to do it.

4 Let me just give you the benefit of our
5 thinking to date, and maybe we need to carry our
6 thinking a little further.

7 We see all of the groups that we've
8 identified as having a connection to our mission in
9 terms of a broader university, in terms of encouraging
10 support, in terms of the alumni, in terms of the
11 President's Club. And these are people we think
12 are -- you know, we expect they're going to support
13 financially and otherwise the university.

14 We think the community members make sense.
15 We think it can build some goodwill, opportunity to
16 improve the town-gown relationship, and so our
17 approach was to cap the number so the additional
18 numbers don't become too large, have a specified
19 number for the community so they don't get overwhelmed
20 by the new members, but then give us the flexibility
21 to accommodate a range of people.

22 I mean how do you fit in the Board of
23 Trustees? The Board of Trustees can't use it. They
24 can have access to every other building in the campus
25 and they have a supervisory responsibility for the

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1 university, but they can't use it.

2 How you prioritize School Without Walls,
3 how you prioritize parents and friends. That's why we
4 picked that approach, to have a cap on it and allow us
5 the flexibility within that cap.

6 If you'd like us to take that further and
7 say, "Okay. You know, of the new additional members,
8 tell us which categories are more important," we'd
9 have to give that some thought.

10 CHAIRPERSON MITTEN: Well, I mean, just in
11 some of the things that you've been saying tonight, I
12 mean, when we hear just broad, you know, "the
13 community," I didn't automatically think of School
14 Without Walls. I didn't think of some of the
15 buildings that maybe have elderly residents.

16 So if you could delineate, look, these are
17 some community groups that we might want to open
18 membership to because it's very important.

19 MR. BARBER: Okay.

20 CHAIRPERSON MITTEN: I mean, we need some
21 guidance from you.

22 MR. BARBER: All right. We'll be happy to
23 give you that.

24 CHAIRPERSON MITTEN: All right. Anyone
25 else have any other questions?

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1 Ms. Elliott, cross examination?

2 MS. ELLIOTT: I just have one question.

3 CHAIRPERSON MITTEN: Can Mr. Vecchione
4 make room there?

5 MS. ELLIOTT: I guess this would be
6 directed to Mr. Barber.

7 You said that you're charging for these
8 memberships, the non-university memberships. How
9 would the university handle that? How would they be
10 classified?

11 They would be profits, in other words,
12 from Health and Welfare Center. How would they be
13 classified and how would you handle those?

14 MR. BARBER: I'm sorry. I'm not following
15 the question.

16 MS. ELLIOTT: You're asking for a fee for
17 members.

18 MR. BARBER: Yes.

19 MS. ELLIOTT: And how would the university
20 treat that fee? It's not a university use. That
21 would be a community use, and it would be the
22 equivalent of a commercial membership in a gym.

23 MR. MOORE: No, no, it wouldn't. I'm
24 sorry. The fee that the university would charge would
25 be directed towards the same places that the fees that

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1 the university charges its students and others who
2 currently have the ability to use it.

3 MS. ELLIOTT: Right, but these are non-
4 students. They're not part of the university. They
5 would be outside people. They would be --

6 MR. MOORE: Well, by that same token, Ms.
7 Elliott, not to be argumentative because I know the
8 Board has no time for that, the university is open,
9 has opened its hospital, has opened its bookstore, has
10 opened its eating facilities within the Marvin Center
11 to anyone who wants to come in there, all in
12 furtherance of the university's mission.

13 And there's a fee charged for each one of
14 those visits. So to the extent that the university is
15 a large institution, it's a university that has many
16 different attributes to it that contribute to the
17 mission of the university. This would just be
18 another, no different from the hospital or the
19 bookstore or the --

20 CHAIRPERSON MITTEN: I think she' just
21 asking does this do anything to your tax status --

22 MR. MOORE: Oh, no.

23 CHAIRPERSON MITTEN: -- in order to
24 collect fees like this from outside people.

25 MR. MOORE: No, no.

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1 CHAIRPERSON MITTEN: Is that the gist of
2 it?

3 MR. BARBER: For tax purposes, it's
4 treated the same, connected to the university's
5 mission. It doesn't make it a taxable property. It
6 doesn't -- unrelated business income, those kind of
7 concepts do not apply.

8 MS. ELLIOTT: Thank you.

9 CHAIRPERSON MITTEN: Okay. Thank you.

10 MR. BARBER: Thank you.

11 MR. MOORE: I'm going to stay here, Ms.
12 Mitten. You have the Office of Planning report and
13 the Department of Transportation report.

14 CHAIRPERSON MITTEN: Thank you. I forgot
15 what came next.

16 (Laughter.)

17 CHAIRPERSON MITTEN: Mr. Fondersmith or
18 Ms. McCarthy, whenever you're ready.

19 MR. FONDERSMITH: Thank you, Madame
20 Chairman and members of the Commission.

21 I'm John Fondersmith, Development Review
22 Specialist in the Office of Planning, and with me here
23 is Ellen McCarthy, the Deputy Director for Development
24 Review and Preservation.

25 You have our report. In brief, our

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1 summary recommendation is that condition one of the
2 BZA order be modified to be revised to offer use of
3 Wellness Center to residents of Foggy Bottom, West
4 End, and that the Commission consider membership for
5 students, faculty, and staff from the Mount Vernon
6 campus, subject to requirement for augmented
7 university transit service if necessary.

8 And we suggested revising condition two to
9 allow the Wellness Center to remain open later, until
10 11:30 on all days.

11 I'll skip over the background information
12 and the site and area description. You have our map,
13 and it's on display here. It gives you an idea of the
14 location of the wellness center in relationship to
15 other university facilities, including the two
16 adjacent dorms that are under construction, and the
17 Wellness Center there, the dorm here, and across the
18 street in front of the Smith Center, almost 1,000 new
19 beds coming on line there in a little over a year,
20 just less than a year on the one.

21 And we point out, of course, that the
22 Wellness Center is there. It's there as a building,
23 and what we're dealing with here is really revising
24 the condition.

25 And we did suggest that you take note of

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1 the squash, moving the squash intercollegiate to the
2 Wellness Center and their proposed opening, which is
3 one of the reports. I don't think it's been mentioned
4 here today of opening at 6:00 a.m. instead of the
5 present 7:00 a.m. in the morning.

6 Both of those are things that are
7 mentioned in the consultant's reports, and in our view
8 are allowed in terms of the existing BZA order.

9 And we go over some main points, and we
10 would say that we've approached the evaluation within
11 a certain framework, and that is that while we
12 understand the university's desire to undertake
13 different tasks in terms of the university community
14 as they define it, we believe that neighborhood
15 impacts are the key concern.

16 Two, that students should have priority in
17 use of the Wellness Center.

18 And, three, we do think it's appropriate
19 for the university to reach out to residents in terms
20 of membership, assuming that this can be done without
21 impinging on student use and without creating adverse
22 impacts on the neighborhood.

23 We did talk about the utilization factor,
24 and I think that's already been discussed some here,
25 that while the theoretical number from the Fire

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1 Marshal's rating appears low utilization, the
2 Brailsford report indicates that a utilization rate of
3 between 15 to 25 percent is not uncommon for similar
4 facilities.

5 So while there may be some under
6 utilization now, perhaps it is not as much as might be
7 at first perceived.

8 And, in addition, considering the addition
9 of the dormitories adjacent to the facility, we think
10 that might increase utilization.

11 We're somewhat concerned that adding too
12 many new classes of users would bring a peak of use at
13 the same time that students are at their peak use of
14 the facilities, and it would kind of appear that the
15 exercise equipment, cardiovascular equipment is
16 probably the area of the Wellness Center where you
17 would get a peaking kind of thing.

18 Considering that all students on the Foggy
19 Bottom campus are now assessed a fee for the Wellness
20 Center, it appears, although it's a little hard to
21 tell exactly from the data, that the utilization rate
22 among students overall is not too high, and we think
23 that the university could look at ways to increase
24 that utilization.

25 We mentioned the concern about turning

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1 this into a semi-commercial facility. I think that's
2 already been mentioned here by others.

3 And then we do discuss a little bit more
4 the Mount Vernon campus, and of course, there are some
5 members of the Mount Vernon student body that use the
6 Foggy Bottom, take classes at Foggy Bottom at the
7 present time.

8 Now, in terms of membership for the
9 community residents, the outline for the Foggy Bottom
10 West End area had been outlined by the office in the
11 previous campus plan case, although we note that we
12 used the E Street on the south as the boundary there.

13 Apparently the Constitution Avenue boundary that's
14 been suggested here is by the university wanting to
15 include the State Department and other government
16 buildings to the south where potential users could be
17 drawn from, which we are not supporting.

18 We're supporting allowing residents of the
19 area to use it, but not people just employed in the
20 area.

21 I should note that we had earlier or about
22 a year ago, we had some conversations and
23 correspondence with Ms. Kriegel on behalf of a group
24 of senior citizen group that wanted to use this
25 facility, but couldn't because of the restriction.

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1 And actually she's here tonight. We just met a little
2 earlier.

3 And we had indicated at that time in a
4 very informal sense that we thought that there could
5 be some way to adjust the requirement to allow
6 residents in the area to use the Wellness Center.

7 This, of course, in what the university
8 has proposed is a larger version of that.

9 In terms of the extended hours, we thought
10 that some extended time could be accommodated, but we
11 were, frankly, concerned about keeping the facility
12 open too late, that is, to the 1:00 a.m. time. So the
13 11:30 time is kind of allowing more time for students
14 at night, the intramural use and so on, but not going
15 that much, that late as has been proposed.

16 And then we do mention, again, the
17 business about opening in the morning, which is
18 something that is not really covered by the BZA order,
19 and the squash team -- the BZA order is worded perhaps
20 in an unusual way, but it's dealing with spectator
21 space and on use of the facility for spectator events.

22 And when you look at the space for the
23 Wellness Center for the square courts, they're really
24 not set up, as the university has said, they're not
25 set up as spectator events. So we did not object to

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1 that.

2 So I think that in summary, you have our
3 recommendation that the membership be open to
4 residents and consider the Mount Vernon campus users;
5 allow the facility to stay open longer; emphasize the
6 use for G.W. students; and ask the university to
7 encourage increased student usage; and then take note
8 of the other conditions.

9 MS. McCARTHY: Right, and, Madame Chair
10 and members of the Commission, for the record, my name
11 is Ellen McCarthy.

12 I just wanted to add a few words of
13 context about the Office of Planning's recommendation
14 because I'm not sure maybe the full tone in which we
15 were making those recommendations was communicated in
16 the report.

17 Our major desire in making the
18 recommendation to enlarge the usage of the facility
19 for community members was strictly based on Ms.
20 Kriegel's situation and our sense that, given the
21 concerns that we all have heard from the residents
22 over the years and the adverse impacts of George
23 Washington's presence in the neighborhood, that this
24 was a service that could perhaps be useful and could
25 be a benefit to residents of the neighborhood,

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1 although we were and still continue to be a little
2 concerned about the enforceability once that is opened
3 up to residents who live within that area.

4 And we certainly would further reinforce
5 with Mr. Fondersmith said. What is defined by the
6 university as a community members' area, we certainly
7 do not see no matter how late or how many hours people
8 are working at the State Department for that to be a
9 community member in any sense. We are speaking only
10 about people who live in the neighborhood.

11 And given that that was our primary
12 desire, we want to stress our recommendation is not
13 based at all on any sense that it is important for
14 the Board to increase the utilization of this
15 facility. We think it's extremely important that the
16 conditions that are placed on further processing of
17 buildings be considered as serious conditions.

18 It's disturbing when Mr. Brailsford says
19 that the facility was designed for a much higher
20 capacity because the facility was constructed after
21 this order was issued, when it was very clear what the
22 conditions were that were being placed on the number
23 of people that were eligible for membership in that
24 facility.

25 So needing to increase utilization in

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1 order to utilize the facilities fully is not something
2 that we would consider to be a worthy goal.

3 We also are concerned because as the two
4 hearings on the Health and Wellness Center pointed
5 out, this facility is located on the fringe of the
6 campus immediately adjacent to residential areas, and
7 it was acknowledged that in the campus plan that was
8 in effect when this facility was constructed, that low
9 impact uses were to be located there.

10 So the possibility of late night usage, of
11 increased parking demand on the streets immediately
12 outside the facility, particularly during the same
13 hours that residents are coming home and looking to
14 find on street parking we find to be potentially a
15 serious problem in terms of adverse impacts.

16 We note that unfortunately the Department
17 of Transportation did not address the parking capacity
18 in much detail in their report, and the 140 spaces
19 which are located in this facility, it's important to
20 note, were spaces that were placed in there to replace
21 surface parking spaces that were eliminated for the
22 construction of this facility and others around there.

23 It is not 140 spaces that were placed in there for
24 the utilization of anybody that was thinking to use
25 the Health and Wellness Center. Those were already

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1 programmed to meet the university's overall parking
2 needs.

3 And I guess lastly, to further emphasize
4 what Mr. Fondersmith said, based on the university's
5 own numbers of Brailsford and Dunlevy's own numbers,
6 the utilization is currently 12 percent comparing to
7 15 to 25 percent for typical other facilities, and
8 that is for a facility that's been open less than a
9 year, where 1,000 new beds basically are going to be
10 constructed immediately across the street.

11 So we think it would be severely premature
12 for the Commission to open the usage of this facility
13 to any other than people who live in the immediate
14 neighborhood and are not likely to be driving, are not
15 likely to be parking, and not likely to be having wild
16 conversations after successful intramural games at
17 11:30 or 12 o'clock at night.

18 Thank you.

19 CHAIRPERSON MITTEN: Thank you, Ms.
20 McCarthy and Mr. Fondersmith.

21 Any questions from the Commission? Mr.
22 Hood.

23 VICE CHAIRPERSON HOOD: I just wanted to
24 ask OP: do we know whether or not the State
25 Department has their own wellness center or facility

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1 they have internal that they use?

2 MS. McCARTHY: When I was a GS-3 clerk-
3 typist working there for the summer in college, I
4 don't remember any recreational facilities open to GS-
5 3 clerk-typists, but --

6 (Laughter.)

7 MS. McCARTHY: -- that certainly does not
8 mean that there weren't any in the building.

9 VICE CHAIRPERSON HOOD: I know most of
10 your government facilities now have them. I just was
11 wondering if the State Department had them.

12 Thank you.

13 PARTICIPANT: I worked there until two
14 years ago.

15 CHAIRPERSON MITTEN: We can't take
16 testimony just from the general audience. Thanks.

17 Okay. Any other questions? Mr. Moore.

18 MR. MOORE: Yes, I have a couple.

19 First of all, I've got to be careful here
20 because what we have is a glass half full. The Office
21 of Planning has supported the university in some of
22 the requests that it has made, but not others, and we,
23 of course, would take issue with the Office of
24 Planning's findings --

25 CHAIRPERSON MITTEN: Just ask the

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1 question. Okay?

2 MR. MOORE: Thank you.

3 First of all, Ms. Mitten, I'd like the
4 opportunity to respond in writing to the comments that
5 Ms. McCarthy has just made. She goes considerably
6 beyond the recommendation and points that were made in
7 the Office of Planning's report.

8 I came here today able to respond to the
9 Office of Planning's written report, but she has gone
10 beyond that substantially, and I'd like the
11 opportunity respond.

12 CHAIRPERSON MITTEN: Certainly.

13 MR. MOORE: Thank you.

14 First of all, I guess I should direct my
15 questions to Mr. Fondersmith.

16 You indicated that the students should
17 have a priority use of the center. In 1998, Mr.
18 Fondersmith, the university presented its case to
19 construct and to use the Health and Wellness Center
20 for the university population, and at that time the
21 university did not have any intention of restricting
22 the use to students. It was going to be to the entire
23 university population.

24 What caused you to change your mind?

25 MR. FONDERSMITH: Well, I think the --

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1 CHAIRPERSON MITTEN: Mr. Fondersmith,
2 could you turn on your mic for us?

3 MR. FONDERSMITH: Thank you.

4 CHAIRPERSON MITTEN: Thank you.

5 MR. FONDERSMITH: I mean, despite, you
6 know, whatever was proposed, discussed at that time,
7 the BZA did come to a decision on limiting the use.

8 Now, it's not just the students. As you
9 know, it's the students, the faculty and staff. But
10 as we understand it, in the kind of academic
11 experience, the priority here, we believe we
12 understand and from our perspective, should be the
13 students; that this is part of their educational
14 experience, and the problem at least that appears to
15 us is that the peak times and perhaps for the same
16 facilities -- adding new users from some of your
17 classes will peak at the same time when the students
18 want to use it. That's our concern.

19 MR. MOORE: Respectfully, shouldn't the
20 university have the right to determine who the user
21 should be? And isn't the zoning context numbers and
22 not classes of users? Isn't that the appropriate
23 regulatory tool?

24 MR. FONDERSMITH: The zoning context is
25 looking at how this fits into the campus plan, and

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1 specially how it relates to or doesn't relate to the
2 community.

3 And so I think it's appropriate without
4 certainly getting into details on how the facilities
5 run to be concerned with the impact of the facility.

6 MR. MOORE: You mentioned --

7 MR. FONDERSMITH: And the priority of the
8 students.

9 MS. MCCARTHY: Well, besides that, Mr.
10 Moore, I think it also goes to the problem that the
11 university was citing in terms of utilization, that if
12 the problem is a low utilization and yet you've got,
13 as appeared to be from Mr. Brailsford's testimony and
14 Mr. Vecchione, that one of the key reasons for
15 increasing membership is to utilize the cardiovascular
16 room and that kind of fitness equipment. That's not a
17 demand that can be easily expanded, as all of us who
18 have been in health clubs waiting for our turn on the
19 Stairmaster or whatever know.

20 So it did not appear that that full peak,
21 which is very dramatic and certainly coincides with
22 the student peak was likely to be only in people
23 playing doubles or swimming in the swimming pool, that
24 there was likely to be some over supply in terms of
25 utilization.

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1 I guess it was a rationale along the lines
2 of Mr. May's question, which was your theoretical
3 capacity is your theoretical capability, but if ten
4 guys are playing basketball, those are the only ten
5 men or women that can be on that court at any period
6 of time.

7 So I think our concerns about student
8 utilization were more directed at the university's
9 claim that it needed this increase in order to
10 increase utilization of the facility, and yet you were
11 talking about bringing in members whose utilization
12 would come -- peak utilization would come -- just at
13 the point in time in which the facility already has
14 its peak utilization from its existing users.

15 MR. MOORE: Mr. Fondersmith, you also
16 indicated that the Office of Planning believes that
17 the proposed changes would turn a student facility
18 into a semi-commercial facility. That's not right, is
19 it?

20 This semi-commercial facility, what
21 distinguishes the Health and Wellness Center from the
22 hospital, from University Bookstore, from the eating
23 facilities and dining facilities in the university?

24 MR. FONDERSMITH: Well, we thought it
25 does. There are a number of --

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1 MR. MOORE: How so? How is it different?
2 How is it --

3 CHAIRPERSON MITTEN: Why don't you let him
4 finish answering? And then you can ask another
5 question. Okay?

6 MR. FONDERSMITH: There are a number of
7 fitness centers, gyms, and so on in the area that are
8 commercial facilities, and if you broaden the class of
9 users so much, and as we said in the report, this is a
10 very good facility. I mean, it was built for this.
11 It's large.

12 And at some point you're really pulling in
13 other people. In our view, you're turning what is
14 supposed to be primarily a student university facility
15 and geared first to students; you're turning it into a
16 much larger kind of thing. That's why we said kind of
17 a semi-commercial facility.

18 The advantage we saw of opening it to
19 residents in the area was that at least to some extent
20 -- first of all, they almost all -- I mean, they live
21 within walking distance. That's not to say that some
22 of them might not drive, but almost all of them would
23 walk to it.

24 And there's at least the possibility of
25 having the muse it at off peak hours, that is, in the

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1 morning or in the afternoon when the student usage is
2 not the fullest.

3 That doesn't appear to be the case with
4 pulling in people that are employed in the area and
5 getting the peaks at lunch hour and after work.

6 MR. MOORE: Thank you.

7 MR. FONDERSMITH: So that's what --

8 MR. MOORE: Thank you.

9 Lastly, because I know the hour is getting
10 late, you indicated that the new dormitories on Square
11 43 and 57 would increase the utilization of the Health
12 and Wellness Center amongst students. The first
13 question is, one: how do you know that?

14 MR. FONDERSMITH: I don't think we -- we
15 certainly don't know for sure, and I think we said
16 that we thought that there was a -- let me see just
17 what we said. I think we -- oh, where is that?

18 Yeah, we said this increase in students
19 living directly adjacent -- this is on page 7 --
20 living directly adjacent to the Wellness Center should
21 increase utilization.

22 I mean, we can't say for sure that it
23 will, but when you look at -- when you go down there
24 and stand at the door and the new dorm with 710 beds
25 is right across the street and diagonally across the

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1 street are the new townhouse dorms with 250 beds, it
2 would appear that that proximity may encourage greater
3 utilization of the Wellness Center.

4 MR. MOORE: All right, and if it does,
5 would it -- because they're located across the street,
6 would you agree that it will have zero impact on
7 parking and transportation?

8 MR. FONDERSMITH: Well, it should have
9 limited -- I mean, assuming those students walk across
10 the street, and I would hope they would walk across
11 the street and not drive. It should have limited
12 impact.

13 MR. MOORE: All right. Those are all of
14 the questions I had. I'll address the rest of the
15 concerns I had in writing.

16 Thank you.

17 CHAIRPERSON MITTEN: Thank you, Mr. Moore.

18 Ms. Elliott, any questions for the Office
19 of Planning?

20 MS. ELLIOTT: No.

21 CHAIRPERSON MITTEN: All right. Thank
22 you.

23 Is there anyone here from DDOT? We have a
24 report that was submitted from DDOT. Is there anyone
25 here?

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1 (No response.)

2 CHAIRPERSON MITTEN: All right. We have a
3 request from DDOT to waive our rules. The report came
4 in -- I think it's a little bit late, not excessively
5 late.

6 Any objection from the commission to
7 accepting the report from the Department of
8 Transportation?

9 You have a copy of this, don't you, Mr.
10 Moore?

11 MR. MOORE: Yes.

12 CHAIRPERSON MITTEN: Okay. Ms. Elliott,
13 do you have a copy of the DDOT memorandum?

14 MS. ELLIOTT: No.

15 CHAIRPERSON MITTEN: All right. Well,
16 make sure that she gets a copy.

17 All right. We're ready for the report of
18 the ANC.

19 MR. MOORE: Ms. Mitten, I would ask the
20 opportunity to respond to the DDOT report as well, in
21 writing.

22 CHAIRPERSON MITTEN: Certainly.

23 MR. MOORE: Thank you.

24 CHAIRPERSON MITTEN: And I believe that
25 you've asked for our waiver, too, because your report

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1 was a little bit late, and I think with the
2 circumstance that you described where you didn't get
3 served on time, I don't think we have a problem with
4 that.

5 And as I said, you'll have additional
6 opportunity if there's anything that you feel that you
7 feel you need to follow up on.

8 MS. ELLIOTT: That would be great.

9 CHAIRPERSON MITTEN: Okay.

10 MS. ELLIOTT: Okay. Again, I'm Elizabeth
11 Elliott, Chair of ANC-2A.

12 Madame Chair and members of the
13 Commission, thank you for considering the ANC's
14 response to George Washington University's request and
15 presentation this evening.

16 The ANC would like to incorporate by
17 reference the testimony and letters -- the letters and
18 testimony at this hearing of the Foggy Bottom
19 Association and also the testimony of Mr. Jim Bunnell,
20 representing the Sports Club LA here this evening.

21 Please keep in mind that the Foggy Bottom
22 Neighborhood Commission is a group elected by the
23 majority of our constituents and carrying purported
24 great weight in its recommendations to D.C. agencies.

25 The ANC is an unpaid volunteer group with limited

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1 human and financial resources, and we're always
2 working from a position of weakness in relation to the
3 numerous wealthy and powerful nonprofit organizations,
4 particularly George Washington University, located
5 throughout our neighborhood.

6 We are appearing today without benefit of
7 counsel.

8 Because we are usually at a great
9 disadvantage in these proceedings, the ANC relies
10 particularly on the Zoning Commission and the Board of
11 Zoning Adjustment to exercise their authority as they
12 are charged under the D.C. Municipal Regs., the
13 Comprehensive Plan, and the G.W. Campus Plan, to
14 protect and enhance the neighborhoods.

15 We especially rely on the Zoning
16 Commission and the BZA regarding universities which
17 are not located or allowed to develop by right in the
18 midst of our residentially zoned community, but are
19 subject to the special exception process under the
20 campus plan umbrella.

21 After rejecting GWU's original application
22 and an appeal of that decision, the BZA finally
23 approved the Health and Wellness Center on January
24 8th, 1997. The BZA clearly based much of its approval
25 of this building's location on the university's

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1 repeated testimony in al three appearances regarding
2 the intended low intensity use of this facility in an
3 area that was also available for student residential
4 housing, a use the community and the ANC would have
5 preferred at least in part on this site under the G.W.
6 Campus Plan.

7 And I cited in here in the BZA order the
8 finding of fact number two. The anticipated use is
9 not a major use. High usage buildings are
10 specifically listed in the campus plan and this is not
11 one of them.

12 In all three hearings, the BZA ultimately
13 ignored the ANC's testimony and contention that the
14 university presented no evidence justifying a facility
15 of this size and scope with its potential for
16 intensive use, particularly in this sensitive location
17 away from the campus core.

18 The ANC's position has been borne out by
19 the university's own consultant study, demonstrating
20 that a very small percentage of the university's own
21 audience for whom this facility was purportedly built
22 of 17,000-plus students, 1,200-plus faculty, and
23 9,000-plus staff are using the facility.

24 G.W. is contradicting its own
25 representations upon which the Health and Wellness

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Center application was approved, now claiming that the intensity of use of the center is too low and the university needs to change, that is, increase, the number of users of the facilities and extend the operating hours at the facility to increase the use.

In other words, to solve its self-induced problem of over building this facility, the university needs to inflict a potential objectionable effect, high intensity use, excess traffic, commercial use, et cetera, on its host community and pass it off as an amenity to the community, membership, no doubt with a fee, access to the Health and Wellness Center for certain Foggy Bottom West End residents.

Even though the university is appearing here today to request changes to the conditions of BZA Order No. 16276, in fact, the conditions in this order have no impact on nor relationship to the university's inability to market this facility to its own captive audience.

If the university's stated intent here is to increase the intensity of use, it needs to, as OP points out repeated, market to its own BZA approved audience of nearly 30,000 potential users. Instead, as if this is not a large enough potential user base, the university is now proposing inclusion of among

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1 thousands more potential users the G.W.'s Mount Vernon
2 campus faculty, staff, and students, an entirely
3 separate entity with its own campus plan subject to
4 zoning review.

5 Maybe we've misunderstood this, but
6 incredibly OP seems to be supporting this scheme to
7 completely usurp the campus planning process by
8 bypassing review of either the G.W. Campus Plan or the
9 G.W. Mount Vernon college plan, and to consider both
10 campuses as one.

11 I have an article to give you talking
12 about -- that's from the "By George," from the
13 November 16th university publication, alluding to the
14 currently popular thinking by G.W. officials of a
15 boundaryless campus, including all of G.W.'s holdings.

16 The addition of the potential nuisance of
17 more traffic, people, and shuttlebuses from Mount
18 Vernon running in and out of this already overburdened
19 neighborhood seven days a week almost pales in
20 comparison to this outrageous attempt by G.W. to
21 subvert the campus planning process.

22 A decision of this scope, particularly
23 including another college campus in a separate
24 neighborhood, requires additional public input and
25 hearings.

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1 Additionally, the university is
2 inappropriately merging the facility's activities with
3 those of the Smith Center and consequently blurring
4 the distinction between the two facilities, despite
5 the fact that the BZA order in this case precludes the
6 Health and Wellness Center's use as an intercollegiate
7 sports facility.

8 And I've again referenced the summary of
9 evidence number three and excerpt. Intercollegiate
10 athletics will not be a part of programming, and
11 space will not be used for any spectator events.

12 G.W. has simply announced in its filing
13 that it has already moved the apparently newly created
14 men's and women's intercollegiate squash teams to the
15 facility, a violation of this order.

16 In another announcement, G.W. has stated
17 in its application that it will now be opening the
18 Health and Wellness facility beginning at 6:00 a.m.,
19 despite evidence in its consultant report that there
20 is little or no use of the facility until later in the
21 morning.

22 The ANC is not opposed to the concept of
23 non-university community residents being able to take
24 advantage of a facility like the Health and Wellness
25 Center, as some residents formerly were able to do at

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1 the Smith Center. Unfortunately, the issue is not
2 that simple.

3 As the ANC pointed out in its resolution
4 modifying the membership categories to include non-
5 university parties can be construed as a violation of
6 the District of Columbia Human Rights Act and will
7 expose not only the university, but also the city and
8 the Zoning Commission to legal action from any
9 excluded party under the act.

10 ANC-2A believes that such legal action
11 will result in the opening of the Health and Wellness
12 Center to a universal public creating a quasi-
13 commercial facility not applied for in G.W.'s original
14 application and with little, if any, connection to
15 G.W.'s educational mission.

16 The use of this building primarily as an
17 exercise facility, a kind of G.W. Gold's Gym, located
18 far from the campus core and a block away from the
19 national landmark low density Foggy Bottom Historic
20 District, and abutting some of the last non-university
21 owned or controlled residential housing in ANC-2A and
22 open to the general public is unacceptable.

23 Additionally, G.W.'s charging of
24 membership fees for any users other than the currently
25 BZA approved users also raises a host of legal issues

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1 regarding a tax exempt nonprofit organization making
2 profits in a quasi-commercial facility, as well as
3 engaging in unfair competition, for example, for
4 patronage from G.W. alumni, State Department
5 employees, et cetera, with the numerous not-for-
6 profit, tax paying exercise centers located not only
7 in ANC-2A, but also throughout the District of
8 Columbia.

9 The ANC would like to further emphasize
10 this case as yet another example of how G.W. is
11 exploiting the incredibly problematic bifurcation of
12 the over arching Campus Plan currently governed by the
13 BZA until at least 2009 from the special exception
14 process now transferred to the auspices of the Zoning
15 Commission.

16 G.W. continues to manipulate loopholes in
17 BZA orders bypassing the governing campus plan and the
18 comprehensive plan. During the campus plan remand
19 hearings in the fall of 2001, the ANC presented
20 unrefuted evidence from the OPA SNAP (phonetic)
21 planning process and the 2000 U.S. census that the
22 Foggy Bottom Advisory Neighborhood Commission area
23 with a population count of 11,900-plus, which the ANC
24 believes is under estimated, and a median age of 25
25 years old is now populated by a large majority of

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1 students both inside and outside G.W.'s campus plan
2 boundary.

3 There is a tremendous amount of lipservice
4 being given to the ANC about preserving and protecting
5 our established residential neighborhood. We have
6 reported to the Commission that more and more of the
7 Foggy Bottom West End community, including our public
8 space, is being swallowed up and converted into
9 nonprofit institutional use and university use either
10 de facto or de jure.

11 And the Foggy Bottom West End residential
12 population is currently dominated by transient,
13 primarily non-tax paying students.

14 It is clear that the D.C. municipal
15 regulations guiding the special exception review
16 process, G.W. Campus Plan, and the Comprehensive Plan
17 are failing to protect our long-term tax paying
18 residential neighborhood and are eliminating the
19 city's much needed tax base in Foggy Bottom West End.

20 In particular, the G.W. Campus Plan is the
21 mirage that the university's administration is even
22 now planning to circumvent with the potential switch
23 to a trimester system and an increase to 9,000 of
24 G.W.'s undergraduate population. And I have a handout
25 that I'll pass out to you in just a moment on that

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1 topic.

2 ANC-2A believes that the Zoning
3 Commission's approval of any change to either of the
4 BZA's conditions in its final order approving the
5 Health and Wellness Center would, in fact, be
6 tantamount to its approval of a change in use from the
7 original order and would be grounds for reopening the
8 original BZA special exception Application No. 16276
9 to further hearings, as well as the BZA approved G.W.
10 Campus Plan 16553.

11 ANC-2A is satisfied that the conditions
12 created by the BZA in this order limiting the
13 categories of users and limiting the hours of
14 operation are clearly working to prevent the
15 university from creating any further objectionable
16 effects, including increased traffic, noise, and too
17 intense use, for example with this facility that would
18 impact negatively on the Foggy Bottom host community
19 and its for profit exercise businesses.

20 ANC-2A contends that this should not be
21 reconsidered, changed or altered in any way other than
22 to eliminate the loopholes, for example, the 6:00 a.m.
23 opening and the use as an intercollegiate facility
24 that subvert the order's intent.

25 The Home Rule Charter for the District

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1 gave ANC's the power to represent local residents in
2 expressing community concerns before District agencies
3 and decreed that the concerns expressed by the ANC be
4 given great weight and that a written rationale be
5 given should the agency take a position different from
6 that of the ANC.

7 We believe the preponderance of the
8 evidence supports the ANC-2As request that the Zoning
9 Commission deny G.W.'s application to alter the
10 conditions placed on the Lerner Health and Wellness
11 Center regarding membership and hours of operation.

12 Thank you.

13 CHAIRPERSON MITTEN: Thank you, Ms.
14 Elliott.

15 Can you just explain what it is that you
16 think? I mean you said you're somewhat sympathetic to
17 allowing some community use of the facility, but you
18 think that that's going to result in a violation of
19 the Human Rights Act. Can you explain that a little
20 bit more?

21 MS. ELLIOTT: Well, the Human Rights Act,
22 there is a provision. I believe it's in the public --
23 if something is considered a public facility, that you
24 cannot open it up to one group and discriminate
25 against another group.

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1 CHAIRPERSON MITTEN: Can you provide that
2 language to us?

3 MS. ELLIOTT: Yeah. There is apparently a
4 new version of the Human Rights Act, and I'd be more
5 than happy to submit that.

6 I spoke with somebody on the Human Rights
7 Commission about this within the last week, and there
8 is that concern.

9 CHAIRPERSON MITTEN: Okay. Any questions
10 from the Commission? Mr. Hood?

11 VICE CHAIRPERSON HOOD: I just wanted to
12 ask Ms. Elliott. I believe this is in single member
13 District 2A-04.

14 MS. ELLIOTT: Until January 1st, I
15 believe.

16 VICE CHAIRPERSON HOOD: Oh, okay.

17 MS. ELLIOTT: I think it will switch
18 after, yeah. I think everything runs --

19 VICE CHAIRPERSON HOOD: So it's moving.

20 MS. ELLIOTT: Yeah.

21 VICE CHAIRPERSON HOOD: I believe in
22 seeing in the file we have some correspondence from a
23 former Commissioner who has explained his SND. I
24 guess the folks he presents at some time, which
25 obviously has been some time ago, was favorable to

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1 exactly what's being proposed here by George
2 Washington.

3 What has been your experience from the
4 community, from the majority of the folks who live in,
5 I guess, single member district 2A-04?

6 MS. ELLIOTT: Well, I believe there will
7 be some members from that district testifying here
8 tonight through the Foggy Bottom Association.

9 We understood that it was this
10 Commissioner's desire to have the Health and Wellness
11 Center open, but I don't know whether or not he was
12 representative of his constituents.

13 VICE CHAIRPERSON HOOD: Okay.

14 MS. ELLIOTT: He also wasn't an elected
15 Commissioner.

16 VICE CHAIRPERSON HOOD: Right.

17 MS. ELLIOTT: He was fulfilling -- he was
18 appointed and was fulfilling --

19 VICE CHAIRPERSON HOOD: But I know also
20 since this Commission is vacant, I know the Chair
21 usually represents that area, usually takes the piece.
22 So I wanted to get a feel for what you were hearing.

23 MS. ELLIOTT: Well, I think the
24 Commission, they're torn just like the ANC is, that we
25 would like to see it open to, for example, Ms. Kriegel

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1 and her group, but we're concerned about the
2 implications of that.

3 VICE CHAIRPERSON HOOD: Let me ask you
4 this way, Ms. Elliott, because I'm looking for an
5 answer.

6 MS. ELLIOTT: Well, we're very -- sorry.

7 VICE CHAIRPERSON HOOD: Does this vote by
8 the ANC reflect what you've heard from the
9 constituents, especially in ANC-2A-04?

10 MS. ELLIOTT: Yes.

11 VICE CHAIRPERSON HOOD: Okay. thank you.

12 CHAIRPERSON MITTEN: Mr. May?

13 MR. MAY: May I follow up on that?

14 We have gotten some letters in this
15 regard, particularly with regard to community use,
16 resident community use, and they are running very
17 highly in favor of expanding this. My count is 14 to
18 one, but that's just on the papers that are in front
19 of me.

20 So it's somewhat surprising to hear that
21 this vote, which was unanimous against any kind of
22 expansion, would reflect that.

23 Now, you said yourself that the ANC is not
24 opposed to expanding to community use. Is that an
25 unqualified community use or for selected groups, or

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1 what does that really mean?

2 MS. ELLIOTT: Well, I think, again, it's
3 problematic because we have paid businesses. We have
4 for profit businesses that provide these same kind of
5 services that can't compete with G.W. because their
6 prices are much higher.

7 And so we represent them also. I mean
8 they are located in our ANC, and they provide money to
9 the city and provide money to the tax base, and as I
10 said, you will hear from a representative of one of
11 those businesses tonight.

12 And, again, for a group like Ms. Kriegel's
13 it's directly in front of the center, and people that
14 are there, I mean, we would want to support that but,
15 again, it's problematic because we don't know what the
16 implications of that are in terms of opening this up
17 to the general public

18 And also, in the original hearing on this,
19 there was tremendous community support also. There
20 were many, many letters of people wanting. So that
21 hasn't changed, and I think --

22 MR. MAY: So there still are a lot of
23 people who want this to be open to the community if
24 the right conditions could be established.

25 MS. ELLIOTT: Right, but I think there's a

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1 big problem with this.

2 MR. MAY: Okay. Are there any groups
3 within the proposed expanded membership that the ANC
4 would not find objectionable? I mean, for example,
5 family members of students, is that a problem for the
6 neighborhood?

7 MS. ELLIOTT: I don't -- we haven't
8 considered that. We looked at the groups that it's
9 open to now, and assumed that that was part of it. I
10 can't sit here and tell -- because we haven't
11 discussed that, in particular. We discussed simply
12 that it was the university faculty staff, et cetera.

13 I mean, again, if there was some way that
14 that could be worked around that they wouldn't be
15 competing with existing businesses, and they wouldn't
16 be basically opening us up to some sort of legal
17 challenge.

18 MR. MAY: Right. I wouldn't worry so much
19 about the legal challenge as the people who are
20 setting the policy are the ones that are going to be
21 facing that. I mean, if there is a case for this, you
22 know, as a result of, say, expanding just the family
23 use, G.W. could -- I'm sure would gladly take that on.

24 I guess it would be helpful to understand
25 since there is such a mixed feeling whether there are

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1 certain groups that the ANC or the community would not
2 find objectionable because it seems to me that there
3 are some pretty low impact editions to the current
4 membership that could be made. I mean low impact in
5 the sense that it's not going to be -- it's not likely
6 to be a huge impact on the neighborhood if family
7 member of students start coming because the sort of
8 circumstances are, you know, when somebody is in town
9 visiting their child who's going to school or, you
10 know, even if it's from across town or whatever.
11 You're not going to get a lot of people coming in on
12 guest memberships. It's just not a profitable or a
13 reasonable way for people to sort of get access to
14 that kind of facility.

15 So it would just be nice to know more
16 about the particulars. You know, one of the things
17 that I'm concerned about is when you throw in things
18 like workers from the neighborhood, that throws the
19 doors open to a whole different class of people which
20 I would think that the neighborhood would find totally
21 objectionable.

22 And is it because of that condition that
23 the community has such mixed feelings? I mean, if
24 that was not in the mix at this moment, would the
25 neighborhood be much more amenable to this?

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1 CHAIRPERSON MITTEN: Can I just jump in
2 and say I asked Mr. Barber to give us sort of a list
3 of these different, you know, possible classes, like
4 family members or just general guest memberships or,
5 you know, a number of sort of cuts at this large group
6 that they're proposing. So maybe after he does that
7 we could ask the ANC to take a look at that and, say,
8 weigh in and say, you know, there actually are maybe
9 a couple of groups like family members that really
10 wouldn't be a problem.

11 And then you know, that might get us just
12 a little bit closer to an amicable solution if there
13 is one that's achievable. So if we ask you to do
14 that?

15 MS. ELLIOTT: The university is creative,
16 and maybe they can find a way to creatively wrap the
17 family members into some kind of university
18 attendance. That would be my -- quasi-students.

19 CHAIRPERSON MITTEN: Well, if you would at
20 least review the list and give us any input on the
21 list that Mr. Barber provides, it would be helpful to
22 the Commission.

23 MS. ELLIOTT: All right.

24 CHAIRPERSON MITTEN: Did you have anything
25 else, Mr. May?

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1 MR. MAY: No, I think you've found a way
2 to answer my question.

3 Thank you.

4 CHAIRPERSON MITTEN: Mr. Hood?

5 VICE CHAIRPERSON HOOD: Madame Chair, I
6 just wanted to add I know you asked for a submittal on
7 this human rights issue. I would like to see us also
8 ask for an opinion from our Corporation Counsel on our
9 own on that issue.

10 CHAIRPERSON MITTEN: We'll pass that
11 along.

12 VICE CHAIRPERSON HOOD: Well, not tonight
13 obviously.

14 CHAIRPERSON MITTEN: Right.

15 (Laughter.)

16 CHAIRPERSON MITTEN: That's a good
17 request.

18 Mr. Parsons, did you have anything?

19 All right. Mr. Moore, did you have any
20 cross examination?

21 All right. Ms. Elliott, thank you.

22 MS. ELLIOTT: Thank you.

23 CHAIRPERSON MITTEN: And are you going to
24 submit the testimony that you read for the record
25 because --

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1 MS. ELLIOTT: Sure thing.

2 CHAIRPERSON MITTEN: -- I think it was
3 more expansive than the resolution?

4 Okay. We're ready for persons in support.

5 I have the witness list, and we'll work off of that,
6 and then if anyone neglected to sign up, we'll ask for
7 that.

8 And as you come up, give your witness
9 cards to the reporter as you're called forward. We'll
10 get a panel of four. We have four microphones.

11 Anthony Rizzuto.

12 Eva Neterowicz. I'm sure I got that
13 wrong.

14 Donald Lincoln.

15 And David Lehrman.

16 And each of these folks is testifying as
17 an individual. So you'll have three minutes.

18 And, Mr. Rizzuto, whenever you're ready.

19 MR. RIZZUTO: Thank you, Madame Chair.

20 Good evening, honorable body. My name is
21 Anthony Rizzuto. I am an income taxpaying resident of
22 Washington, D.C. I live at 2450 Virginia Avenue,
23 N.W., Columbia Plaza, the Envoy Building, Apartment E-
24 104, which is diagonally across from the Health and
25 Wellness Center, across 24th and G and then Virginia.

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1 I just wanted to come to you today to
2 represent a more balanced and centered type of opinion
3 of the community.

4 I believe it angers me -- also I should
5 mention that I'm a G.W. alum., May 2000, a young
6 alum., and I am an active member in the community. I
7 served on the Columbia Plaza Tenants Association for a
8 year. I was an elected Board of Director there. I
9 finished my term in September.

10 I need to be clear because I'm sure people
11 here in the audience will be very upset with me that
12 I'm not speaking as a Columbia Plaza Tenants
13 Association Board of Director. I'm speaking as an
14 individual.

15 I first want to mention to Mr. Fondersmith
16 in the Office of Planning that I really commend them
17 in their service here because it seems like they've
18 taken the issue. G.W. is all the way over here. The
19 ANC and other organizations that purportedly represent
20 our community, like the Foggy Bottom Association, are
21 all the way over there.

22 CHAIRPERSON MITTEN: Watch those elbows.
23 You've got somebody sitting --

24 MR. RIZZUTO: I'm sorry.

25 (Laughter.)

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1 MS. RIZZUTO: And the Office of Planning
2 seems to be more centered.

3 Now, it's a simple -- it's just very
4 simple. This is a very good -- it's a state-of-the-
5 art facility, and it's an amenity to the community, an
6 excellent amenity to the community.

7 I'll touch on two issues very quickly that
8 opponents of this plan have, and then I also want to
9 maybe share some other things if I have enough time.
10 But, the tax issue, with the private for-profit health
11 clubs, other than the Watergate Hotel Health Club,
12 there's no other health clubs in the area except for
13 the Golden Triangle Business Improvement District,
14 which is about a 20-minute walk for residents up north
15 of the Health and Wellness Center.

16 Now, I called today, the closest one,
17 Bally's, is at 21st and L Street, and I tried to get
18 the best rate, and basically it averages out for these
19 clubs \$40 a month. GW has guaranteed, and in this you
20 would need to get this to be guaranteed, they've
21 guaranteed the staff rate, which would be \$25 a month,
22 so that would be excellent. The noise issue, it's
23 preexisting traffic patterns, and I do not think that
24 there will be any noise, and I might speak on the
25 opponent's side as well for against issues. Thank

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1 you.

2 CHAIRPERSON MITTEN: Actually, you just
3 had your say right there, okay?

4 MR. RIZZUTO: Oh, I can't speak on the
5 opponent's side. Okay.

6 CHAIRPERSON MITTEN: But you can submit
7 something in writing for the record --

8 MR. RIZZUTO: Okay.

9 CHAIRPERSON MITTEN: -- if you found that
10 you had additional things to share with us.

11 I didn't say your name right, so I'll just
12 -- I did? Okay. Please go ahead.

13 MS. NETEROWICZ: Yes. Good evening. My
14 name is Eva Neterowicz. I am long-time resident of
15 Foggy Bottom, having first moved into the neighborhood
16 in the 1980s. I have been a strong supporter of
17 George Washington University and the numerous
18 improvements that have occurred in our community as a
19 result of their active involvement in a large number
20 of improvement projects which have directly benefitted
21 our historic area. Our neighborhood has become far
22 safer, our property values have risen significantly,
23 the cultural and educational expansion of our
24 community has been substantially enriched, and due to
25 the new deluxe GW Hospital, our medical care is now

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1 the best in the City. These positive changes have
2 resulted primarily through the quality upgrades
3 offered to the community by George Washington
4 University.

5 Recently, GW has applied to broaden the
6 usage and increase the hours of operation of the new
7 Health and Wellness Center located in the dead center
8 of our community at 23rd and G Streets. This
9 magnificent facility has been unfairly excluded for
10 use by residents of the neighborhood where it is
11 located despite the strong desire of the residents and
12 the wishes of GW to open this Center to the broader
13 community. In fact, George Washington University
14 wishes to make an extraordinary offer to Foggy Bottom
15 residents to charge only \$295 a year for full use of
16 this facility including the pool. This is the same
17 rate that is charged the GW staff.

18 Membership fees in local, comparable
19 health clubs with pools, such as the Watergate Health
20 Club, the LA Sports Club and the YMCA, are triple or
21 quadruple this rate, depending on the membership, and
22 these facilities are not nearly as modern or as
23 comprehensive as the Health and Wellness Center. To
24 exclude members of the Foggy Bottom community from
25 benefitting and participating in this beautiful

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1 facility located in our neighborhood makes no sense.
2 We in the community wish to join, and GW welcomes our
3 membership. Please be so kind as to facilitate our
4 mutual partnership request and approve GW's
5 application to make more efficient and fair use of
6 this beautiful recreational resource.

7 I would like to submit my letter for the
8 record.

9 CHAIRPERSON MITTEN: Please do. Thank
10 you, Ms. Neterowicz.

11 MS. NETEROWICZ: Thank you.

12 CHAIRPERSON MITTEN: Mr. Lincoln.

13 MR. LINCOLN: Thank you, Madam Chairman.
14 I'm a relatively new resident of Foggy Bottom. I
15 moved into Watergate East approximately three years
16 ago. I'm a great supporter of the University, and I
17 see the University just going out of its way to be
18 friendly with the Foggy Bottom community. I'm a couch
19 potato myself, but when I heard that there was this
20 possibility of the Center opening up to the residents
21 of Foggy Bottom I immediately decided I'm going to get
22 involved in fitness at my advanced age. But, again,
23 I'm a firm supporter of opening this Wellness Center
24 up to the community. Thank you.

25 CHAIRPERSON MITTEN: Thank you. And Mr.

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1 Lehrman. Could you turn on your microphone for me?
2 There you go. And identify yourself for the record.

3 MR. LEHRMAN: I'm David Lehrman. I'm
4 Commissioner-elect for the Foggy Bottom ANC for the
5 2A-01 area. I currently reside at the Statesman at
6 20th and F, and by day I'm a regulatory attorney for
7 the United States Department of Transportation, and
8 this is my first foray into politics. You'll
9 appreciate the fact that I liked running unopposed
10 this last time. And that may be the last bit of
11 unopposition I deal with in this process.

12 (Laughter.)

13 I am here in support of the idea of
14 opening it up to the people that I represent. My
15 building, the Statesman, as you probably know, is
16 really quite a changing, evolving population. I live
17 among the students, essentially. When I moved there
18 ten years ago, it was 50 working professionals. It's
19 now probably 95 percent students, and the other five
20 percent are a range of some people like myself,
21 retirees, several multiply handicapped young women
22 that come to the area to work and have found that
23 place conducive to their lifestyle.

24 And I rest my argument in favor of opening
25 it up, at least the choice, to the community in four

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1 areas. One, obviously it is an economic selling
2 point. The Watergate is \$1,000 a year, the Four
3 Seasons, I think, is over \$2,000, you're offering a
4 similar package at \$295 to people in my area that
5 might very well not even use a health care.

6 Number two, improvement of town gown
7 relations. I live among the students, and I can tell
8 you that I certainly have seen the differences when
9 they wake me up at two, three, four and five in the
10 morning, and we need to have a conversation about that
11 because I have to be at my desk in the morning, at the
12 same time, they'll often offer to help me with the
13 groceries if they see I'm struggling with it. I don't
14 think that we should rule out, because we haven't
15 tested it, what happens when you mix a population of
16 working professionals with students. I think it
17 enhances maturity, I think it encourages dialogue, I
18 think you have more of an idea to see what's
19 happening.

20 And until you actually run this through
21 and see what happens when you change the dynamic in
22 the Wellness Center itself, you won't fully know
23 whether it's going to work or not. You can still
24 always adjust it and amend it once it is or isn't
25 working, but I think you can't rule out the

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1 possibility that some of the "sky is falling"
2 scenarios that I'm hearing seem a tad exaggerated.

3 And, finally, I do think that if you have
4 all not had the opportunity to just go and inspect the
5 facility, I'm assuming you have not but perhaps all of
6 you have, I think there's a changed perspective one
7 gets when you actually see it. The students that are
8 there are serious in demeanor, in my observation, and
9 they are tired when they get finished with their
10 workouts, and it's not the same dynamic as when you
11 see leaving a sports events where people really are
12 hopped up.

13 I heard earlier reference to the sleeping
14 patterns. My observation is actually the party scene
15 starts Thursday night, not really Saturday night, and
16 actually continues straight through until well into
17 Sunday. So I think the University might offer some
18 statistics on actually what's happening with those
19 bars that are being avoided on Thursday night and
20 Friday night and Sunday as well. But I see --

21 CHAIRPERSON MITTEN: Can you wrap it up
22 because your time is up?

23 MR. LEHRMAN: Absolutely. Bottom line is
24 I'm a supporter of the idea of at least offering the
25 choice to the community.

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1 CHAIRPERSON MITTEN: Thank you.

2 MR. LEHRMAN: I thank you very much.

3 CHAIRPERSON MITTEN: Thank you. Let me
4 see if the commissioners have any questions. Any
5 questions for the panel. Let me just ask you, do you
6 have an opinion, you know, the ANC has suggested that
7 they actually are sympathetic to your position of
8 opening it up to the community, but it's these other
9 groups like alumni that may have an impact on traffic
10 and so forth. Any of you have an -- you've all
11 addressed yourselves specifically to opening it up to
12 the community or certain community groups. Do you
13 have any opinion on opening it up to some of these
14 other groups that may generate more traffic and so
15 forth? Let Mr. Lehrman go first.

16 MR. LEHRMAN: The one thing that I'm
17 struck by is that the traffic and the parking is so
18 awful there that people don't knock themselves out to
19 come out there that easily, and I think that my
20 opinion is that your target population actually is the
21 people who are already there. I really cannot imagine
22 somebody from Chevy Chase deciding that at one in the
23 morning or 12:30 they want to come down to use the GW
24 facilities. In general --

25 CHAIRPERSON MITTEN: Maybe that's when

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1 they could park.

2 (Laughter.)

3 MR. LEHRMAN: That's absolutely true.
4 They might get a space, that's true. So, in any case,
5 it's an opinion, but it's --

6 CHAIRPERSON MITTEN: Okay. Mr. Rizzuto,
7 did you want to add something? Could you turn on the
8 mike, please?

9 MR. RIZZUTO: I just wanted to add that I
10 believe that the community residents living right in
11 Foggy Bottom should have first priority. The State
12 Department employees, that's ridiculous, they
13 shouldn't have access to it. Other populations,
14 possibly, but really you need to ensure that it's the
15 community first, and you need to put that in the
16 conditions.

17 CHAIRPERSON MITTEN: Okay. Thank you.
18 Thank you all. Oh, I'm sorry. Mr. Moore, did you
19 have any cross examination? Ms. Elliott, any cross
20 examination? Okay. You're done. Thank you.

21 We have Mr. Bedden? Am I saying that
22 right? What is SWW?

23 MR. BEDDEN: School Without Walls.

24 CHAIRPERSON MITTEN: Oh, yes, I should
25 know that by now. And R is the first initial and then

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1 N-E it looks like D-Y-L, Nedyl. Yes, I think so, I'm
2 sorry, I couldn't read it. If you'd give those cards
3 to the reporter. Anyone else who wants to testify in
4 support? Ms. Combrinck. Anybody else? Did you fill
5 out witness cards? Okay. We don't have witness
6 cards. Mr. Moore, we're going to need witness cards
7 for you. Don't you fill out some too usually just he
8 can identify you? Ms. Warner, the squash lady. Okay.
9 Mr. Vecchione. And Mr. Lehrman. You're going to
10 need to fill out two witness cards for us and turn
11 them in. All right. I think we're caught up now.
12 Okay. And Was there anyone else who wanted to testify
13 in support? Come forward now and drop off your cards
14 with the reporter. So we'll start with Mr. Bedden.
15 Go and identify yourself for the record.

16 MR. BEDDEN: Dana Bedden, Principal of
17 School Without Walls. First of all, I'd like to say
18 that I am product of something that came up, the SEC
19 and the Big Ten. I went to and worked in both those
20 Athletic Departments as well intramurals, so I could
21 answer some of your questions about that. I also have
22 a Bachelor of Science in Exercise and Sport Science,
23 and I work in athletics, recreation and intramurals,
24 so some of this is personal to me also, knowledge-
25 base-wise.

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1 But I'm here, more importantly, to
2 represent the interests of the School Without Walls,
3 which I've been at for three and a half years. When
4 the Board passed its ruling that restricted use, it
5 devastated our school and the expectations and our
6 conversation with GW which we had hoped would absorb
7 some of our issues. We're dead smack in the middle of
8 campus without a lot of support for intramurals and
9 athletics, and we had been in conversations with the
10 Athletic Department with regards to absorbing some of
11 our physical education needs, basketball, volleyball,
12 cheerleading, those types of things that dramatically
13 have been hindered by this current status.

14 I have a school of 325 students, and by
15 the very nature of our program we depend on the
16 community. That's the premise of the school, to use
17 the City's resources. And we have currently have a
18 partnership, for example, the YMCA, where our students
19 actually workout alongside of senior citizens, young
20 adults, and most of them speak very highly of the
21 interaction.

22 I would ask that the Board take into
23 consideration seriously the modification of its
24 current policy, if nothing else to take care of the
25 children who I had to say, "Don't come with me tonight

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1 to pack this room to advocate for their desired use of
2 the facility," not to mention as my second stint as an
3 administrator in an urban setting that a lot of our
4 kids don't get exposed to this type of environment,
5 these types of resources.

6 I represent in our school every district
7 in the City because we're a city-wide magnet school.
8 My kids come as far away as an hour to come to school,
9 and part of the attractive draw is the GW University
10 -- the use of the Gilman Library, the use of the
11 Marvin Center, the Smith Center. With the growth of
12 their department and the student use in the Smith
13 Center, we've kind of loss some of our access to the
14 Smith Center, and until it was a help to ask for and
15 to have the Health and Wellness Center absorb some of
16 that and still be able to help us. With the current
17 situation, we've pretty much spent a great deal of
18 time running around the block, going over to 17th and
19 Rhode Island or Washington Sports Club has tried to
20 pitch in and help out now with the restrictions that
21 we've had.

22 But this would dramatically help us a
23 great deal, not only with regards to the exposure to
24 students but the type of student that comes to School
25 Without Walls. I'm currently struggling to attract

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1 more, for instance, minority males. I know for a
2 fact, our LSRT has studied it, the lack of athletic
3 facilities, the lack of opportunity to participate in
4 athletics has hindered our attraction to males
5 applying to our school where we're sending 95 percent
6 of the kids to college. More of those male -- I need
7 to have a balance of the female/male population to
8 expose them to collect life and the interest in going
9 to school.

10 So what you do here or don't do here
11 actually has an educational impact on this City and
12 our youth. Most of those students will go away, get a
13 degree or stay at GW and get a degree and stay right
14 here or come back and be taxpaying citizens, residents
15 back here in the community. So you have the ability
16 to also to influence education by what you do or don't
17 do here.

18 The Superintendent just presented his
19 budget today asking for \$44 million more than what he
20 got this past year. In that he made a dramatic plea
21 that we need more contributions from the community,
22 the corporate private sector, grants, donors to pitch
23 in because he knows that the City is not going to be
24 able to absorb that \$44 million.

25 The University President has made it quite

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1 clear: One school he can help on a regular basis is
2 ours just by virtue of our location. Our students use
3 Gilman, we're half a block away from the Smith Center,
4 one and a half blocks away from the Health and Fitness
5 Center. Our PE Department, our Athletic Department,
6 for practice purposes, not competition because it
7 doesn't have seating for spectators, will be
8 dramatically improved by having access to this
9 facility. And I have 325 letters written to you if
10 want it, every student will write it.

11 CHAIRPERSON MITTEN: We'll take your word
12 for it.

13 (Laughter.)

14 MR. BEDDEN: And I will leave it at that.

15 CHAIRPERSON MITTEN: Thank you Mr. Bedden.
16 Ma'am, you're next. There you go, and just identify
17 yourself for the record when you begin.

18 MS. NEDEFF: My name is Roma Nedeff, and I
19 first came to Foggy Bottom in 1953 and have lived on
20 and off since that time, but I worked overseas as
21 Foreign Service Officer, and so I've lived
22 continuously in the apartment I own on 24th and H
23 since '89 to the present. And during that time, and
24 all through those different years that I was coming
25 back and forth from overseas post, never heard a

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1 complaint about noise and traffic problem up until
2 today. Never had heard of such -- the only noise --

3 CHAIRPERSON MITTEN: I guess you haven't
4 been to an ANC meeting.

5 (Laughter.)

6 MS. NEDEFF: The only noise really we
7 hear, and you can only hear it -- our buildings are so
8 sound-proof the only noise we ever hear is an
9 ambulance siren or a police siren, that's all. I very
10 much am in favor of opening up the Wellness to the
11 community. It will be healthful for them, improve
12 their well-being, and this little bit of
13 unfriendliness that's existed in the past between the
14 University and Foggy Bottom people maybe it will be
15 resolved. That's all I have to say. Thank you.

16 CHAIRPERSON MITTEN: Thank you. Ms.
17 Combrinck?

18 MS. COMBRINCK: Good evening,
19 Commissioners. My name is Laetitia Combrinck. I
20 reside in ANC-2A-01 on 20th Street. That's the far
21 east end of the Foggy Bottom area, and I also live in
22 a building predominantly occupied by students, but
23 anyway we try to make the best of it. I would like to
24 urge the Commission to give due consideration to the
25 application of the George Washington University

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1 regarding the use of the Health and Wellness Center.

2 It is unfortunate that the differences
3 about other matters the Foggy Bottom neighborhood has
4 with the George Washington University should hinder
5 any change the University would like to make regarding
6 the use and longer hours for the George Washington
7 University Health and Wellness Center.

8 Before the BZA approved the project in
9 1998, I believe, the community had participated in
10 many meetings and presentations with GW about it, and
11 originally GW was willing to open the use of the
12 facilities at the Center to non-student neighbors.
13 But due to the unreasonable opposition, strong
14 objections and nastiness of some residents, the offer
15 was withdrawn by the University, unfortunately. Now
16 that the University is again making this overture to
17 the community, one would have expected a more gracious
18 response. However, there are neighborhood residents
19 that do not support that hardline approach and would
20 welcome a change in the regulations allowing the use
21 of the Center.

22 If the residents are not permitted
23 membership, nevertheless I would like to make a case
24 for some compromise. At least let the GW alumni,
25 parents and family of students be granted that and

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1 allow the Center to operate until maybe 12 p.m.
2 instead of 1 p.m. It is unimaginable that a large
3 number of persons would be leaving the Center at that
4 hour nor that there would be any appreciable increase
5 in noise or disruption. The closest residential
6 building is about one and a half blocks away, and to
7 the east it's mostly campus.

8 Furthermore, the argument that the Center
9 would deprive commercial fitness centers of business
10 is not a strong one, as the closes one to it, the
11 Watergate Gym, is an exclusive club, not necessarily
12 affordable by all residents. The other gym in the
13 immediate vicinity, I believe it's the Bally, is at
14 the corner of 21st and L Streets, about five blocks
15 further north. I do also respect the ANC's position
16 about their legal arguments, but I think, at least on
17 this one, I think the membership should be open and
18 the time of operation lengthened. Six o'clock might
19 be a bit early, but I think we should give
20 consideration to it. Thank you.

21 CHAIRPERSON MITTEN: Thank you. Any
22 questions from the Commission? Mr. Moore? Ms.
23 Elliott? Oh, I'm sorry.

24 MR. MAY: Got to move faster. I have a
25 question for Principal Bedden. The facilities at

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1 School Without Walls right now, are there any athletic
2 facilities or training facilities?

3 MR. BEDDEN: None whatsoever. We have --
4 the building was probably third or fourth oldest in
5 the whole fleet of schools in the system. It's an old
6 elementary school where you had 125 percent capacity
7 with student capacity, with no cafeteria, no
8 auditorium and no athletic facilities whatsoever. Our
9 Athletic and PE Program is a composite of GW,
10 Washington Sports Club and the YMCA.

11 I will tell you that since 9-11 and the
12 sniper concerns, I get more and more letters and
13 concerns from parents about our students and traveling
14 about the City, and that's the premise of our program,
15 but, obviously, having a closer venue brings a lot
16 more security and comfort to our parents also knowing
17 that we also have what they call a nexus and
18 disciplinary action as well as a relationship with the
19 University police-wise and MPD, so they feel a little
20 bit comfortable. I just had a concern today because
21 what just happened over the holidays when I was out of
22 town. Evidently, a student who was out and about
23 selling something and evidently had some harm done to
24 them. But we have none whatsoever.

25 In my first year here, I had a very

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1 positive conversation with the University about the
2 potential that existed to be a little closer partner
3 with us as they have continued, as opportunities have
4 presented itself, to try to help us. Given that it
5 seems to be the help from the City and the school
6 system keeps diminishing, I quite often spend a great
7 deal of time on the phone with the President and
8 they're raising their stakes and trying to contribute
9 and being a community partner. Again, his comment is
10 that, "This is one school, based on proximity, I have
11 the ability to do a lot to help, given the concern
12 with diminishing resources for the school system."

13 So we're depending more and more on
14 partners, and we've lost some because of financial
15 constraints with 9-11 and their funding has gone down
16 that they've decreased some of their services. I know
17 I sit on one of the boards for the Y, and they've had
18 to cut back on services, so we have nothing facility-
19 wise athletically.

20 MR. MAY: Okay. Thank you.

21 VICE CHAIRPERSON HOOD: Madam Chair, Mr.
22 Bedden, just to follow up, what have you done since
23 you've been here so you won't have to be so dependent
24 on the University? While I know you all appreciate
25 it, as far as the school system's budget and being

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1 accountable for the things that you don't have in your
2 school, what have you done to make sure that some of
3 those things show up on the School Board's budget so
4 you won't have to be dependent on GW?

5 MR. BEDDEN: Well, I mean we obviously
6 continue to articulate our case. I mean the school
7 system as a whole has gone through a modernization
8 plan for buildings that we have had an opportunity to
9 chime in, and I actually have to attend a meeting
10 coming up on the redesign of high schools. I'm one of
11 the few principals chosen, so my voice is a part of
12 how we remake a high school as they go through that
13 process. We've also, to be honest with you, tried to
14 spread out some of our dependency by going to other
15 resources and pulling in new resources. I just had a
16 meeting with the new President at UDC, our only state
17 institution, about working closer with them.

18 Quite frankly, the bottom line is my boss,
19 the Superintendent, is asking for more help from the
20 community, the private sector. The bottom line is
21 well is very difficult. You know, the Brookings
22 Institute said the federal government should give the
23 District \$300 to \$500 million just for it to meet its
24 needs. We're going everywhere and anywhere to try to
25 get resources is what I'm saying.

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1 VICE CHAIRPERSON HOOD: Thank you. I'm
2 sure the City won't wait on that money.

3 MR. BEDDEN: Yes, definitely. So we're
4 going anywhere and everywhere is the answer to it.

5 CHAIRPERSON MITTEN: Thank you all for
6 coming down. And I think we had one more person. Was
7 there somebody else back there who wanted to testify?
8 Did you want to testify in support? Now we have two.
9 Okay, that's fine. Did you want to testify in
10 support? Okay. If you want to testify in support,
11 now's the time to come forward. Take a seat at the
12 table. Let's start down on the left and we'll work
13 our way.

14 MS. KILNER: Thank you. My name is Vivien
15 Kilner. I own property at 2475 Virginia Avenue, which
16 is Potomac Plaza. I've been there about the last four
17 years. The irony was I lived there several months
18 until September rolled around, and I started walking
19 toward the City and there was this dorm giving out
20 lemonade, and then I realized I lived on a campus.

21 (Laughter.)

22 I've lived on campuses for 30 years, I've
23 lived on six different campuses. There is always a
24 town gown conflict, and I think we need to separate
25 other conflicts with GW from what is being offered

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1 right now. And I very much want to use that Health
2 Center, especially when I retire and do not have one
3 that's very cheap at work. I, in retirement, would
4 not be able to pay the fee at private surrounding
5 health centers. And now that I've heard Principal
6 Bidden about the students, it seems to me that's
7 certainly another group that would benefit very
8 greatly, and I cannot see that it would have any
9 impact that would bother me.

10 I have an undergrad student living across
11 the hall from me. One night some of his friends made
12 a very unwise decision to march down the hall about
13 2:30 in the morning, and I think I am the only woman
14 on the hall that has had children. Now, my son makes
15 this kid look quiet, but still he's -- I mean when
16 four or five other students come down and pound on his
17 door and he wasn't there, it created a stir. But as
18 another gentleman said, after a conversation it works
19 out.

20 And other things that students are doing
21 for the community need to be further known about, such
22 as delivering groceries, such as teaching people how
23 to use computers. There's a lot of student
24 interaction, services, people wanting to do things.

25 So to not take any more time, I really am

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1 for this, and I think as a community those of us, I
2 don't own a car, I will not be searching for a parking
3 space, would very like to use it, and I have a great
4 number of other people who would like to use it too.
5 And I think we appreciate the ANC, but I don't know
6 that they represent all of us.

7 CHAIRPERSON MITTEN: Thank you, Ms.
8 Kilner. Ma'am?

9 MS. JARVIS: Yes. My name is Rosemary
10 Jarvis. I'm the President of the Remington
11 Condominium Association, which is located directly
12 across the street from the Wellness Center. We went
13 through the period of the construction, and now we're
14 going through the period of having the dorm directly
15 behind us. So I have spoken on both sides of the
16 table, for and against the University, when they've
17 suggested certain proposals.

18 On this particular issue, I'm speaking for
19 this because as the President I have been approached
20 by certain residents in our building who have
21 requested to find out if there was any way that they
22 would be able to use the facilities. As I said, we
23 live directly across the street from the university so
24 there would be no parking or issues that we would be
25 going through.

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1 I also believe that if this was allowed,
2 it would allow the University to give back to the
3 community and it would -- I, again, agree with people
4 at this table, it would allow some mending to go on
5 between residents and the University, that bridge that
6 needs to be shortened. I think this would be a very
7 good way for it to happen, and I also agree that it
8 would be very good because the people in our building
9 are professionals, and this would allow people of that
10 age group to interact with students, and I think,
11 again, it's something that both students and somebody
12 who's out there working would both benefit from that.

13 CHAIRPERSON MITTEN: Thank you, Ms.
14 Jarvis.

15 MS. JARVIS: You're welcome.

16 CHAIRPERSON MITTEN: Ma'am?

17 MS. KRIEDEL: Good evening. Forgive my
18 voice. I'm Mildred Kriegel, and I'm former Chairman
19 of the Board of Directors, President of the Board of
20 Directors at Potomac Plaza Apartments where I
21 currently live. I've lived in Foggy Bottom since
22 1974.

23 My name was mentioned before in connection
24 with a group, and I'd like to clarify what that group
25 is. About 14 years ago, the University made the Smith

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1 Center pool available for a program of aquarobics
2 mainly geared toward senior citizens, people who have
3 arthritis, who are recuperating from back surgery,
4 orthopaedic problems, and most of the people using the
5 program, including myself, until recently when I broke
6 my hip, I haven't been able to use it for a couple of
7 months, but the people who were using the program were
8 recommended to use it by their physicians. It has
9 done untold good for the people who have used that
10 program. We have blessed the University over and over
11 for giving us the chance to be there. Now, we pay a
12 slight fee for it. When you think of what other
13 facilities charge, it's really not much.

14 But when we found out about the Wellness
15 Center, we were more or less of the impression that
16 when the Wellness Center was completed that our group
17 would be moved over there, because the University
18 would be using the pool mainly for athletics, their
19 own athletics, and when the time came to go over there
20 and we saw that there was going to be a restriction
21 put on it, I started a campaign for two years now. I
22 was writing letters to President Trachtenberg, and
23 I've written letters to the Planning Commission, and I
24 might say that Mr. Fondersmith has been very, very,
25 very good to talk to and work with.

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1 And I just want to say that I hope that
2 this program will continue to allow our people to use
3 that facility -- I mean to move into that facility,
4 because it has done us so much good. And there has
5 never been any more than 20 or 21 people in the class.

6 It meets three days a week, and the University has
7 supplied us with very good instructors. And I urge
8 you to please consider allowing this particular group
9 of people from the neighborhood to continue to use the
10 facilities, because we really need it. Thank you.

11 CHAIRPERSON MITTEN: Thank you, Ms.
12 Kriegel. Any questions for this panel? Mr. Moore?
13 Ms. Elliott, any questions? All right. Thank you all
14 for coming down. All right. Last call for people in
15 support. All right. We'll move to folks in
16 opposition. I have a few on my list, and then we'll
17 pick up anyone else who didn't sign up. Barbara
18 Spillinger, Dorothy Miller and Jim Bunnell. Is there
19 anyone else who'd like to testify in opposition? We
20 have room for one more at the table. Okay. Mrs.
21 Spillinger, we'll start with you.

22 MS. SPILLINGER: Madam Chair and members
23 of the Commission, my name is Barbara Spillinger, and
24 I am appearing before you this evening as Vice
25 President of the Foggy Bottom Association, a

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1 neighborhood association whose membership reaches some
2 500 plus residents of Foggy Bottom West End.

3 On November 25, the Association submitted
4 a letter, which I hope you have all received and have
5 had an opportunity to read, which detailed action
6 taken by the Foggy Bottom Association Board to oppose
7 the reopening of the George Washington University
8 Health and Wellness Center agreement.

9 Our reasons for the action are clear: At
10 the time GW made application for this facility, the
11 community voiced its objection to the size of the
12 building and its placement on the fringe of the
13 campus. However, the University insisted it needed
14 all of the space for its students and faculty.
15 Additional concerns were expressed over noise, numbers
16 of students, added traffic and parking availability.
17 As a result, a finely crafted compromise was reached
18 limiting the hours of operation and granting access
19 only to students, faculty and staff for the GW Foggy
20 Bottom Campus.

21 Now, only a year into operation, GW wants
22 to change the ground rules. It has admitted the
23 building is too large and therefore underutilized and
24 proposes opening admission to a plethora of persons,
25 thereby placing this tax-exempt, tax-supported

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1 facility into direct competition with taxpaying
2 businesses in the neighborhood. An expanded
3 membership and increased hours of operation would mean
4 more traffic, further deterioration of air quality and
5 more noise on adjacent streets at later hours, all to
6 the discomfort and distress of the community.

7 We ask that the Zoning Commission hold to
8 its original position and insist that GW honor its
9 original commitment. This application is ill-founded
10 and premature and should be denied. And I thank you.

11 CHAIRPERSON MITTEN: Thank you. Let's
12 have Mrs. Miller next. We're doing the ladies first
13 and then we'll do the gentlemen.

14 MS. MILLER: I find it interesting that of
15 the people who spoke in favor of it tonight, those who
16 live in Foggy Bottom, we've put out approximately
17 posters of 30 for people to come, and this was
18 advertised, and only one of the people that I know of
19 had come to any of the ANC meetings to give us any
20 input. And the strange thing is we were there to get
21 their input, but we didn't get it. And even the new
22 Commissioner I've never seen at an ANC meeting.

23 And I've been through all of the
24 proceedings before this, and to give you some
25 background, the lot -- they violated the 1985 Campus

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1 Plan when this particular lot was chosen, because it
2 was supposed to be the second spot they chose for a
3 dormitory, but they talked the BZA out of using it for
4 a dormitory because education with mixed use it could
5 also be a sports facility. And the exercise at the
6 center of the campus didn't have a pool, by the way,
7 but they put in a pool in -- that was not in their
8 original order. And the other facilities at the Smith
9 Center, they were supposed to have all of their
10 athletics at the Smith Center in 1985 Campus Plan.
11 That was another violation.

12 The ANC at the time stated it was too
13 large, and we wanted to know why they wanted something
14 that large. But the interesting thing was they had
15 promised over 165,000 people if they would back them
16 they could use it. The Kennedy Center, their patrons,
17 the Watergate, their patrons, anybody could use it,
18 and we counted approximately 165,000 people they had
19 planned to use it, so of course it had to be big. And
20 the parking in Foggy Bottom is already at 110 percent,
21 far more than the place can afford, and the students
22 say they would rather park on the street and get a
23 ticket. It's easier and cheaper than parking and
24 paying GW. And they've said that to me many times.
25 And now they're beginning to put boots on the cars --

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1 they're going to have a lot of fun. They said they
2 have lots of boots.

3 Now, the commercial use by the University
4 club, which they put next to Thurston Hall, the
5 students complained when they wanted to put an outdoor
6 arrangement for dining and drinking that it was too
7 noisy for the students at Thurston Hall, so they
8 didn't get approval for that. Now, St. Mary's Court,
9 I understand there are only about four persons there
10 that would like to use it, and they would limit their
11 time and use from ten o'clock in the morning till two
12 o'clock in the afternoon. If they didn't use it at
13 those times, they wouldn't be able to. And they're
14 right next to St. Mary's Church, which is a historic
15 church, and they tried desperately to prevent it from
16 going there, but unfortunately they got taken
17 advantage of and that's a tragedy, because some of the
18 people wanted to do it and some of them didn't, and
19 the priest that was there at the time has left.

20 CHAIRPERSON MITTEN: You need to summarize
21 because you're just about up.

22 MS. MILLER: Okay. Oh, by the way,
23 Columbia Plaza has its own now, and Mr. Rizzuto should
24 come down to the room and see it. We have our own
25 exercise center in the conference room, that used to

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1 be the conference room, and it's free, and it's open.

2 All you have to do is walk in and sign in and you can
3 use it.

4 CHAIRPERSON MITTEN: Is that your closing
5 remark?

6 MS. MILLER: Not quite.

7 CHAIRPERSON MITTEN: Then you need to tell
8 me what the last word is.

9 MS. MILLER: The hospital, the hospital.

10 CHAIRPERSON MITTEN: All right.

11 MS. MILLER: He refers to this thing as
12 being like the hospital. Heaven's forbid. The
13 hospital, George Washington rents one part of one
14 floor, and my doctor tells me the place now is full of
15 mold because they tried to make the thing accessible
16 to handicap people and the water went out, went all
17 down the steps and the building is now full of mold.

18 CHAIRPERSON MITTEN: Okay. That's going
19 to have to be the last word, and then if you have
20 anything else to say, you can put it in writing.

21 MS. MILLER: I will draft my remarks,
22 because I had not planned to speak tonight because I
23 thoroughly endorsed what Foggy Bottom and ANC-2A had
24 submitted.

25 CHAIRPERSON MITTEN: Okay.

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1 MS. MILLER: But when I saw what was
2 coming down the pike I had to say something.

3 CHAIRPERSON MITTEN: Okay.

4 MS. MILLER: Thank you for listening.

5 CHAIRPERSON MITTEN: Sure. Sir?

6 MR. BUNNELL: Madam Chair and Commission,
7 my name is Jim Bunnell. I'm the General Manager of
8 the Sports Club/LA. We're located on the corner of 22
9 and M. I was just brought into this situation
10 actually last Wednesday before I flew back to Boston,
11 but I'm not unfamiliar with this sort of situation
12 when it comes to unfair competition and tax-exempt
13 adult fitness centers.

14 The Sports Club/LA has been open roughly
15 two years. We have 5,200 members. It had an initial
16 capital investment of just under \$10 million. We
17 spent opening costs in excess of \$3 million. We've
18 paid tax revenues to the District in those two years
19 of about a quarter of a million dollars. Our total
20 payroll tax to the District over those two years is
21 around \$1 million. We employ 300 employees. We've
22 generated over \$25 million in sales in those two
23 years. Our payroll to date is just under \$10 million.

24 Our benefits are \$1.1 million. And so far
25 financially we have lost in excess of \$6 million since

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1 we've been in business. So we're a real for-profit
2 health and fitness facility.

3 One of my main concerns, and, again, I've
4 been very close to this issue, and as Mr. Brailsford
5 commented earlier in his comments, the International
6 Health, Racket and Sports Association is our
7 Association that governs our industry internationally.

8 There's roughly 3,000 clubs here in the United States
9 that are members of that Association, and the number
10 one issue that those for-profit health and fitness
11 facilities want IHRSA to work on is the fair
12 competition issue. That's non-for-profit businesses
13 getting involved in the adult fitness business.

14 Now, I applaud and support the University
15 getting involved in supporting schools like the School
16 Without Walls or any sort of senior groups or any sort
17 of kind of philanthropic things that they can do to
18 utilize their facilities and programs. What I oppose
19 is somebody from Patton Boggs that happens to live in
20 Foggy Bottom -- Patton Boggs is a local law firm --
21 and says, "Okay, Sports Club/LA is \$1,200 a year, GW
22 is \$295 a year." I have Life Fitness treadmills, they
23 have Life Fitness treadmills. I have Hammerstrength,
24 they have Hammerstrength, I pay taxes, they don't.
25 They can charge a lower rate and compete unfairly.

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1 So I think we really, really -- you know,
2 my closing statement is it needs to be fair, and I
3 would applaud it if they wanted to get into the adult
4 fitness business. I would support it, but let them
5 pay taxes or take away my taxes.

6 CHAIRPERSON MITTEN: Thank you. Any
7 questions for these folks? Okay. Thank you all.
8 Anyone else in opposition, last call for opposition.

9 MS. SPILLINGER: Can I ask a question?

10 CHAIRPERSON MITTEN: Sure, you can ask a
11 question.

12 MS. SPILLINGER: You had talked earlier
13 about Mr. Barber's list of options that you were going
14 to provide the ANC. Would you also provide that to
15 the Foggy Bottom Association?

16 CHAIRPERSON MITTEN: Mr. Barber's shaking
17 his head yes, or nodding his head yes. Mr. Moore has
18 learned his lesson, and he will serve you.

19 (Laughter.)

20 And we understand that some of your
21 rebuttal is actually going to be in writing to things
22 like the Office of Planning report.

23 MR. MOORE: Absolutely, absolutely, and a
24 lot more detailed and a lot more coherent, I hope.
25 Madam Chairperson, members of the Commission, this has

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1 been a productive hearing process. We thank you for
2 your time and close attention to our presentation.
3 The University has tried to put a strong case into the
4 record to earn each of your votes to approve the
5 application that is before you.

6 What we have tried, and I think we have
7 succeeded, in putting substantial and uncontroverted
8 evidence into the record to support the special
9 exception that is before you. The evidence shows that
10 first the BZA erred in its 1998 order in finding that
11 the primary purpose of the University's Health and
12 Wellness Center is to serve exclusively its students.

13 The evidence shows that the University's mission with
14 respect to the Center and all of its facilities is to
15 serve the entire community, not just students but the
16 entire community in which it is located. That
17 includes its students, faculty, its staff, its Board
18 of Trustees, its alumni, the parents and guests of
19 students and faculty and staff and the people who live
20 in the University's community. That has always been
21 the purpose for which this and every University
22 facility is created. For the BZA and now the Office
23 of Planning to suggest otherwise, respectfully to both
24 of them, it's just wrong.

25 The reason that we are here tonight is

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1 that in making that factual error the BZA then
2 determined to arbitrarily restrict the usage of the
3 Center on the basis of class and not number, and
4 clearly it is the number that is the measure of zoning
5 impact. The result has been that the University is
6 unreasonably hampered in its ability to pursue its
7 mission at this facility. There are people,
8 supporters, participants and friends of the University
9 who would like to use the Lerner Health and Wellness
10 Center but cannot because they are not now members of
11 the right class of people. How does the University
12 tell them that, especially those who see the empty
13 spaces at Lerner or who are aware of what other
14 university fitness facilities offer? Under the
15 special exception that we seek this evening, we ask
16 the Commission to correct that.

17 In support of this request, the University
18 has presented expert testimony that there is no
19 zoning-related reason that the Health and Wellness
20 Center should not be available to others based on
21 numbers presented and not class. The Office of
22 Planning agrees that the Center is underutilized but
23 suggests that the University could do a better job of
24 attracting more students to be members. I suppose
25 that the University could sponsor a big campaign to

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1 increase its market share among students, that's a
2 worthy endeavor but beside the point here. The point
3 is that the University has done its homework and has
4 demonstrated through expert evidence in the record
5 that the broadening of the membership base, as
6 requested, will not have an adverse impact on the use
7 and enjoyment of the neighboring property, and that is
8 what the special exception relief is about. The issue
9 is certainly not whether the University can do a
10 better job of attracting more students to use the
11 facility. What the University seeks is more latitude
12 to determine who uses the facility, and the zoning-
13 related facts clearly support that end.

14 To the extent that policy considerations
15 play a role, how can this or any other university not
16 offer a facility of this type to its Board of
17 Trustees? What sense does it make to prohibit the
18 University from offering guest privileges to the
19 parents and guests of students? How often will
20 parents will seek such opportunities? We are mindful
21 and frankly continue to be disappointed that not
22 everyone in the community shares of our view of the
23 merits of this wonderful Health and Fitness Center.
24 As has been true in past cases, some few in the
25 community have made clear their personal opposition to

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1 all University interests, despite ongoing efforts by
2 the University to be respectful and responsive to
3 their issues. On the other hand, there are many in
4 the community who do support and are excited about the
5 opportunity to use this wonderful facility.

6 So in the record are the facts, the
7 reasons and the policy on which the University submits
8 that it's met its burden of proof and that it is
9 entitled to the special exception relief that is
10 requested. Respectfully, we thank you for your time
11 and close attention to our detailed presentation.

12 CHAIRPERSON MITTEN: Thank you. Now we
13 have to go through our little schedule. Mr. Bastida?

14 MR. BASTIDA: Yes. Shall we have the list
15 of requests that the Commission has made?

16 CHAIRPERSON MITTEN: Please.

17 MR. BASTIDA: Okay.

18 CHAIRPERSON MITTEN: Could you move your
19 mike a little bit closer to you, because I'm having a
20 little trouble hearing.

21 MR. BASTIDA: Sure. Yes. First is we
22 need an affidavit of maintenance submitted to the
23 record by the Applicant. We need a submission on the
24 ANC and the Applicant's briefing on the two issues
25 regarding procedural matters. Third is the building

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1 capacity of the building. Third is the level -- I beg
2 your pardon?

3 CHAIRPERSON MITTEN: You're on number
4 four.

5 MR. BASTIDA: Building capacity?

6 CHAIRPERSON MITTEN: That's number four.

7 MR. BASTIDA: That's number three.

8 CHAIRPERSON MITTEN: It doesn't matter,
9 just keep going.

10 MR. BASTIDA: Okay. Level of service,
11 then the library hours, main library hours.

12 CHAIRPERSON MITTEN: Did you ask for a
13 submission on level of service?

14 VICE CHAIRPERSON HOOD: No, I didn't. I
15 was -- I said I was disappointed we didn't do a level
16 of service. No, I didn't ask for it.

17 MR. BASTIDA: You don't want it. Okay..

18 MR. MOORE: I don't want you disappointed,
19 Mr. Hood. Do you want a level of service, sir?

20 VICE CHAIRPERSON HOOD: No.

21 MR. BASTIDA: The priorities of the
22 University that it's going to set for users.

23 CHAIRPERSON MITTEN: It's a prioritized
24 list of potential classes of users.

25 MR. BASTIDA: Class of users.

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1 CHAIRPERSON MITTEN: I know that's what
2 you meant to say.

3 MR. BASTIDA: University response to Ms.
4 McCarthy's comments. The Human Rights Act, that's
5 going to be submitted by the ANC. The rebuttal in
6 writing -- let me see to what -- oh, by the Applicant.

7 MR. MOORE: I'm sorry, I didn't get that.

8 MR. BASTIDA: A rebuttal in writing by the
9 Applicant.

10 PARTICIPANT: On the Human Rights Act?

11 MR. BASTIDA: In general, not only the
12 Human Rights Act but in what he just mentioned, that
13 he would like to have the opportunity to submit
14 something in writing. Copies of the Traffic Analysis
15 report and the Office of Corporation Counsel providing
16 memorandum regarding the Human Rights Act and any
17 potential discrimination to categories of individuals
18 that would be allowed to use the facility. And ANC's
19 response to the membership of the University.

20 CHAIRPERSON MITTEN: Yes?

21 MR. MOORE: Mr. Bastida, you mentioned the
22 University's response to the traffic analysis. Did
23 you mean -- another copy of the traffic analysis. Did
24 you mean the noise analysis?

25 MR. BASTIDA: I said copies of the Traffic

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1 Analysis report because that's not part of the record.

2 CHAIRPERSON MITTEN: I think they actually
3 are. I think all of the ones that I saw are in the
4 Exhibit G, if I'm not mistaken.

5 MR. MOORE: They are.

6 MR. BASTIDA: If they are, then I will
7 take that out. Do you have anything else on the list?

8 CHAIRPERSON MITTEN: I do not.

9 MR. BASTIDA: Okay. Then my suggestion
10 will be that everybody makes a submittal on Thursday,
11 December the 19th by three o'clock, that the
12 University will have -- I mean, excuse me, the ANC
13 will have until Friday, January the 3rd at three
14 o'clock to make their response to the classes of
15 membership, and this then --

16 CHAIRPERSON MITTEN: I think we're going
17 to have to give more time, because that's right over
18 the holidays, and they're not going to have time.

19 MR. BASTIDA: Okay. If that's --

20 CHAIRPERSON MITTEN: Am I right about
21 that? Ms. Elliott, am I right about that? Why don't
22 you come forward, just get on the mike here?

23 MS. ELLIOTT: I also will no longer be on
24 the Advisory Neighborhood Commission, so there will be
25 --

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1 CHAIRPERSON MITTEN: How interesting.

2 MS. ELLIOTT: -- there will be a gap.

3 CHAIRPERSON MITTEN: When's the --

4 MS. ELLIOTT: The 31st of December is the
5 last day.

6 CHAIRPERSON MITTEN: No, when would be the
7 January meeting of the ANC?

8 MS. ELLIOTT: I think the third, the third
9 Wednesday of January. I mean we could -- I could
10 authorize the Vice Chair to submit this.

11 CHAIRPERSON MITTEN: I guess the point is
12 we want the Commission to respond.

13 MS. ELLIOTT: Right.

14 CHAIRPERSON MITTEN: Mr. Moore, are you
15 interested in waiting for the new ANC to convene?

16 (Pause.)

17 MR. MOORE: Ms. Mitten --

18 CHAIRPERSON MITTEN: I want to hear what
19 you're saying.

20 (Laughter.)

21 MR. MOORE: Ms. Mitten, the University is
22 prepared to make its submission by three o'clock on
23 the 12th of December, conditioned upon the ability of
24 the ANC to get a response in before Ms. Elliott leaves
25 her Commission.

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1 CHAIRPERSON MITTEN: What do you think
2 about that?

3 MS. ELLIOTT: Well, our only problem is
4 that we have another hearing in front of the BZA on
5 the 17th. We have --

6 CHAIRPERSON MITTEN: What's that about?

7 MS. ELLIOTT: It's the appeal before the
8 BZA on the Elliott School --

9 CHAIRPERSON MITTEN: Oh.

10 MS. ELLIOTT: -- on conditions,
11 Certificate of Occupancy. We also have a potential --
12 we have a hearing on the 19th in front the HPRB on the
13 Columbia Hospital landmark.

14 CHAIRPERSON MITTEN: Busy.

15 MS. ELLIOTT: We have a potential new
16 special meeting, we have our regular meeting on the
17 11th of December.

18 CHAIRPERSON MITTEN: Well, let me --

19 MS. ELLIOTT: I mean I can -- if you give
20 us a little leeway so that we can do it later in
21 December, if we can respond later in December, then
22 that would be all right.

23 CHAIRPERSON MITTEN: Okay. I mean what
24 basically Mr. Moore is looking that it not be
25 postponed so that you would make your submission after

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1 the January meeting and that just makes it --
2 everything will get much more drawn out.

3 MS. ELLIOTT: I could make it before the
4 end of the year, but I'd like to have it later in the
5 month versus sooner.

6 CHAIRPERSON MITTEN: Okay. So what we
7 could do is -- it's not going to get before the
8 Commission any earlier than -- I mean if they stick
9 with the date of the 3rd for the ANC, than January
10 3rd, but they'll just have their stuff in quicker.
11 The University will have their stuff in quicker, so
12 you'll have a little bit of extra time. You following
13 me? The University will make their submissions --

14 MS. ELLIOTT: Right.

15 CHAIRPERSON MITTEN: -- and that will be
16 by the 12th of December, and then you would have that
17 additional time to craft a response by January 3rd.
18 Would that work for you?

19 MS. ELLIOTT: Okay. Well, I could submit
20 it before the 31st.

21 CHAIRPERSON MITTEN: Yes. Whatever --

22 MS. ELLIOTT: Yes.

23 CHAIRPERSON MITTEN: It wouldn't be due
24 till to the 3rd, and then whenever you get it in. You
25 don't have to wait till the 3rd.

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1 MS. ELLIOTT: Okay.

2 CHAIRPERSON MITTEN: Okay?

3 MS. ELLIOTT: All right.

4 CHAIRPERSON MITTEN: You look pooped.

5 (Laughter.)

6 MS. ELLIOTT: Thank you.

7 MR. BASTIDA: The response of the ANC is
8 only limited to the class of memberships. The ANC is
9 not commenting on any other submission.

10 MS. ELLIOTT: Well, I thought parties were
11 allowed to comment on any of the submissions of the
12 Applicant that would come in.

13 MR. BASTIDA: Well, if you want, then we
14 can do it that way.

15 CHAIRPERSON MITTEN: Well, isn't that what
16 we typically do?

17 MS. ELLIOTT: Madam Chair, may I
18 interrupt? At the beginning of this, I believe you
19 did give us purview since we didn't have an extended
20 period of time.

21 CHAIRPERSON MITTEN: Well, in addition to
22 that, but I think it's typical that we allow the
23 parties. So feel free to comment on any of the
24 additional submissions.

25 MS. ELLIOTT: Okay.

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1 CHAIRPERSON MITTEN: All right?

2 MR. BASTIDA: That means that I will have
3 to allow the Applicant to make comments on the
4 submissions of the ANC.

5 CHAIRPERSON MITTEN: I'm sure they'll do
6 that promptly, right?

7 MR. MOORE: Absolutely.

8 CHAIRPERSON MITTEN: So what would that
9 date be?

10 MR. BASTIDA: Well, all submissions are
11 due on 12 noon on Thursday, December the 12th, and any
12 responses are due 12 noon on Friday, January the 3rd.

13 CHAIRPERSON MITTEN: I thought we were
14 working with 3 p.m. now.

15 MR. BASTIDA: Yes, 3 p.m. I mean, I'm
16 sorry, I said 12 noon, no, 3 p.m. Thank you for that
17 correction.

18 CHAIRPERSON MITTEN: Okay.

19 MR. BASTIDA: And that means that we can
20 put these on the January agenda, which would be
21 Monday, January 13.

22 CHAIRPERSON MITTEN: Wait a second. Mr.
23 Moore is supposed to get an opportunity to comment on
24 what the ANC submits, isn't that what you just said?

25 MR. BASTIDA: Right, but --

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1 CHAIRPERSON MITTEN: So when does he get
2 to do that?

3 MR. BASTIDA: Well, he has three days
4 until the 3rd, otherwise I cannot put it on the
5 January agenda; I will have to put it on the February
6 agenda. Mrs. Elliott says that she will submit it by
7 the 30th or 31st.

8 MR. MOORE: Ms. Mitten gave her till the
9 3rd of January.

10 CHAIRPERSON MITTEN: Okay. You want till
11 the 31st, right? We'll work with the 31st.

12 MR. MOORE: I can work with that.

13 CHAIRPERSON MITTEN: Okay. And what's Mr.
14 Moore's date?

15 MR. BASTIDA: January the 3rd.

16 CHAIRPERSON MITTEN: Oh, he's got the 3rd
17 now. Okay.

18 MR. MOORE: What's the 31st, what day of
19 the week?

20 MR. BASTIDA: The 31st is Tuesday.

21 MR. MOORE: I can work with that, Ms.
22 Mitten.

23 CHAIRPERSON MITTEN: Okay. Okay. I think
24 that's it. Any questions?

25 MS. ELLIOTT: Yes. What do we have due on

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1 the 12th? You want the Human Rights Act papers by
2 then?

3 CHAIRPERSON MITTEN: Yes. And --

4 MS. ELLIOTT: And I didn't understand, Mr.
5 Bastida was saying, number two, something about ANC's
6 briefing.

7 CHAIRPERSON MITTEN: The two issues that
8 you had raised as preliminary matters.

9 MS. ELLIOTT: Oh, okay.

10 CHAIRPERSON MITTEN: I think we need to
11 get those in on the 12th so that Mr. Moore can respond
12 to those to any further extent that he wants to after
13 you flesh those out.

14 MS. ELLIOTT: Okay.

15 CHAIRPERSON MITTEN: So those would be the
16 only things that you have due on the 12th, I believe.
17 Mrs. Miller, what's your question?

18 MS. ELLIOTT: Thank you.

19 CHAIRPERSON MITTEN: Turn on your
20 microphone there for me.

21 MS. MILLER: I didn't have a chance to
22 finish my statement, and what I'd like to do is put it
23 in writing and submit it.

24 CHAIRPERSON MITTEN: That's fine. That's
25 fine.

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1 MS. MILLER: Okay. Thank you.

2 CHAIRPERSON MITTEN: Thank you.

3 MR. BASTIDA: Can you submit it by
4 December the 12th?

5 MS. MILLER: I will make every effort if
6 I'm not down here all of those days in between.

7 MR. BASTIDA: Okay. Thank you.

8 MS. ELLIOTT: One other question.

9 CHAIRPERSON MITTEN: Sure.

10 MS. ELLIOTT: Could I get a list from Mr.
11 Bastida, not tonight but soon, on all this material?

12 MR. BASTIDA: Sure.

13 MS. ELLIOTT: Thank you.

14 CHAIRPERSON MITTEN: Great. Okay.
15 Anybody have any questions?

16 MR. MOORE: Thank you.

17 CHAIRPERSON MITTEN: Okay. I'd like to
18 thank you all for your participation this evening and
19 your patience as we slog through our little schedule
20 there. And as Mr. Bastida said, we have a schedule of
21 submissions planned, and then we would anticipate as
22 of tonight that this would be on the agenda for
23 decisionmaking for our January meeting, which is
24 January 13, which is the second Monday of January, and
25 you're welcome to attend that meeting, and if you have

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1 any questions about the status of the case, you can
2 contact Mr. Bastida. I now declare this public
3 hearing adjourned.

4 (Whereupon, at 9:42 p.m., the Zoning
5 Commission Public Hearing was concluded.)
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